

**DISCLOSURE of CAMPAIGN
CONTRIBUTIONS and EXPENDITURES
AND
RULES and REGULATIONS**



**State Board of Elections
State of Illinois**

CAMPAIGN DISCLOSURE

Public Act 78-1183 was approved September 3, 1974, creating the laws governing Campaign Disclosure. These are found in 10 ILCS 5/9-1 et seq Article 9 of Chapter 10 (The Election Code). Campaign Disclosure references are also found in Chapter 10 ILCS Sections 5/7-12(7) and 10-6.1; 105 ILCS (The School Code) 5/9-10(6); 60 ILCS (The Township Code) Paragraph 5/6A-1 The Campaign Disclosure Act; 10 ILCS 5/29B-10 (Code of Fair Campaign Practices); and 230 ILCS 15/0.01 Application to conduct a raffle.

ARTICLE 9. DISCLOSURE OF CAMPAIGN CONTRIBUTIONS AND EXPENDITURES

5/9-1. As used in this Article, unless the context otherwise requires, the terms defined in 5/9-1.1 through 5/9-1.13, have the respective meanings as defined in those Sections.

5/9-1.1. “Board” means the State Board of Elections.

5/9-1.2. “Business day” means any day other than Saturday, Sunday, or a legal holiday.

5/9-1.3. “Candidate” means any person who seeks nomination for election, election to, or retention in public office, or any person who seeks election as ward or township committeeman in counties of 3,000,000 or more population, whether or not such person is elected. A person seeks nomination for election, election or retention if he (1) takes the action necessary under the laws of this State to attempt to qualify for nomination for election, election to or retention in public office, or election as ward or township committeeman in counties of 3,000,000 or more population, or (2) receives contributions or makes expenditures, or gives consent for any other person to receive contributions or make expenditures with a view to bringing about his nomination for election or election to or retention in public office, or his or her election as ward or township committeeman in counties of 3,000,000 or more population.

5/9-1.4. “Contribution”: means –

(1) a gift, subscription, donation, dues, loans, advance, or deposit of money or anything of value, knowingly received in connection with the nomination for election, or election, of any person to public office, in connection with the election of any person as ward or township committeeman in counties of 3,000,000 or more population, or in connection with any question of public policy;

(1.5) a gift, subscription, donation, dues, loan, advance, deposit of money, or anything of value that constitutes an electioneering communication regardless of whether the communication is made in concert or cooperation with or at the request, suggestion, or knowledge of a candidate, a candidate's authorized local political committee, a State political committee, a political committee in support of or opposition to a question of public policy, or any of their agents;

- (2) the purchase of tickets for fund-raising events, including but not limited to dinners, luncheons, cocktail parties, and rallies made in connection with the nomination for election, or election, of any person to public office, in connection with the election of any person as ward or township committeeman in counties of 3,000,000 or more population, or in connection with any question of public policy;
- (3) a transfer of funds between political committees; and
- (4) the services of an employee donated by an employer, in which case the contribution shall be listed in the name of the employer, except that any individual services provided voluntarily and without promise or expectation of compensation from any source shall not be deemed a contribution; but
- (5) does not include --
 - (a) the use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual in rendering voluntary personal services on the individual's residential premises for candidate-related activities; provided the value of the service provided does not exceed an aggregate of \$150 in a reporting period;
 - (b) the sale of any food or beverage by a vendor for use in a candidate's campaign at a charge less than the normal comparable charge, if such charge for use in a candidate's campaign is at least equal to the cost of such food or beverage to the vendor.

5/9-1.5. Expenditure defined. "Expenditure" means –

- (1) a payment, distribution, purchase, loan, advance, deposit, or gift of money or anything of value, in connection with the nomination for election, or election, of any person to public office, in connection with the election of any person as ward or township committeeman in counties of 3,000,000 or more population, or in connection with any question of public policy. "Expenditure" also includes a payment, distribution, purchase, loan, advance, deposit or gift of money or anything of value that constitutes an electioneering communication regardless of whether the communication is made in concert or cooperation with or at the request, suggestion, or knowledge of a candidate, a candidate's authorized local political committee, a State political committee, a political committee in support of or in opposition to a question of public policy, or any of their agents. However, expenditure does not include --
 - (a) the use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual in rendering voluntary personal services on the individual's residential premises for candidate related activities; provided the value of the service provided does not exceed an aggregate of \$150 in a reporting period;
 - (b) the sale of any food or beverage by a vendor for use in a candidate's campaign at a charge less than the normal comparable charge, if such charge for use in a candidate's campaign is at least equal to the cost of such food or beverage to the vendor.
- (2) a transfer of funds between political committees.

5/9-1.6. "Person" or "whoever" means an individual, trust, partnership, committee, association, corporation, or any other organization or group of persons.

5/9-1.7. "Local political committee" means the candidate himself or any individual, trust, partnership, committee, association, corporation, or any other organization or group of persons which –

- (a) accepts contributions or grants or makes expenditures during any 12-month period in an aggregate amount exceeding \$3,000 on behalf of or in opposition to a candidate or candidates for public office who are required by the Illinois Governmental Ethics Act to file statements of economic interests with the county clerk, or on behalf of or in opposition to a candidate or candidates for election to the office of ward or township committeeman in counties of 3,000,000 or more population.
- (b) accepts contributions or makes expenditures during any 12-month period in an aggregate amount exceeding \$3,000 in support of or in opposition to any question of public policy to be submitted to the electors of an area encompassing no more than one county,
- (c) accepts contributions or makes expenditures during any 12-month period in an aggregate amount exceeding \$3,000 and has as its primary purpose the furtherance of governmental, political or social values, is organized on a not-for-profit basis, and which publicly endorses or publicly opposes a candidate or candidates for public office who are required by the Illinois Governmental Ethics Act to file statements of economic interest with the county clerk or a candidate or candidates for the office of ward or township committeeman in counties of 3,000,000 or more population; or
- (d) accepts contributions or makes expenditures during any 12-month period in an aggregate amount exceeding \$3,000 for electioneering communications relating to any candidate or candidates described in paragraph (a) or any question of public policy described in paragraph (b).

5/9-1.8. "State political committee" means the candidate himself or any individual, trust, partnership, committee, association, corporation, or any other organization or group of persons which –

- (a) accepts contributions or grants or makes expenditures during any 12-month period in an aggregate amount exceeding \$3,000 on behalf of or in opposition to a candidate or candidates for public office who are required by the Illinois Governmental Ethics Act to file statements of economic interests with the Secretary of State,
- (b) accepts contributions or makes expenditures during any 12-month period in an aggregate amount exceeding \$3,000 in support of or in opposition to any question of public policy to be submitted to the electors of an area encompassing more than one county,
- (c) accepts contributions or makes expenditures during any 12-month period in an aggregate amount exceeding \$3,000 and has as its primary purpose the furtherance of governmental, political or social values, is organized on a not-for-profit basis, and which publicly endorses or publicly opposes a candidate or candidates for public office who are required by the Illinois Governmental Ethics Act to file statements of economic interest with the Secretary of State; or
- (d) accepts contributions or makes expenditures during any 12-month period in an aggregate amount exceeding \$3,000 for electioneering communications relating to any candidate or candidates described in paragraph (a) or any question of public policy described in paragraph (b).

5/9-1.9. "Political Committee" includes State central and county central committees of any political party, and also includes local political committees and state political committees, but does not include any candidate who does not accept

contributions or make expenditures during any 12-month period in an aggregate amount exceeding \$3,000, nor does it include, with the exception of State central and county central committees of any political party, any individual, trust, partnership, committee, association, corporation, or any other organization or group of persons which does not (i) accept contributions or make expenditures during any 12-month period in an aggregate amount exceeding \$3,000 on behalf of or in opposition to a candidate or candidates or to any question of public policy or (ii) accept contributions or make expenditures during any 12-month period in an aggregate amount exceeding \$3,000 for electioneering communications relating to any candidate or candidates described in paragraph (a) of Section 9-1.7 or 9-1.8 or any question of public policy described in paragraph (b) of Section 9-1.7 or 9-1.8, and such candidates and persons shall not be required to comply with any filing provisions in this Article.

5/9-1.10. "Public office" means any elective office for which candidates are required to file statements of economic interests under the "Illinois Governmental Ethics Act", approved August 26, 1967, as amended.

5/9-1.10b. Severability. The provisions of this amendatory Act of 1995 are severable under Section 1.31 of the Statute on Statutes.

5/9-1.11. "Public official" means any person who is elected or appointed to public office.

5/9-1.12. "Anything of value" includes all things, services, or goods, regardless of whether they may be valued in monetary terms according to ascertainable market value. Anything of value which does not have an ascertainable market value must be reported by describing the thing, services, or goods contributed and by using the contributor's certified market value required under Section 9-6.

5/9-1.13. "Transfer of funds" means any conveyance of money or the purchase of tickets made in connection with the nomination for election, election, or retention of any person to or in public office or in connection with any question of public policy from one political committee to another political committee.

5/9-1.14. Electioneering communication defined

- (a) "Electioneering communication" means, for the purposes of this Article, any form of communication, in whatever medium, including but not limited to a newspaper, radio, television, or Internet communication, that (1) refers to a clearly identified candidate or candidates who will appear on the ballot, refers to a clearly identified political party, or refers to a clearly identified question of public policy that will appear on the ballot and (2) is made within (i) 60 days before a general election or consolidated election or (ii) 30 days before a primary election.
- (b) "Electioneering communication" does not include:
 - (1) A communication, other than an advertisement, appearing in a news story, commentary, or editorial distributed through the facilities of any legitimate news organization, unless the facilities are owned or controlled by any political party, political committee, or candidate.
 - (2) A communication made solely to promote a candidate debate or forum that is made by or on behalf of

the person sponsoring the debate or forum.

- (3) A communication made as part of a non-partisan activity designed to encourage individuals to vote or to register to vote.
- (4) A communication by an organization operating and remaining in good standing under Section 501(c) (3) of the Internal Revenue Code of 1986.
- (5) A communication exclusively between a labor organization, as defined under federal or State law, and its members.
- (6) A communication exclusively between an organization formed under Section 501(c) (6) of the Internal Revenue Code and its members.

5/9-2. Every political committee shall designate a chairman and a treasurer. The same person may serve as both chairman and treasurer of any political committee. A candidate who administers his own campaign contributions and expenditures shall be deemed a political committee for purposes of this Article and shall designate himself as chairman, treasurer, or both chairman and treasurer of such political committee. The treasurer of a political committee shall be responsible for keeping the records and filing the statements and reports required by this Article. No contribution and no expenditure shall be accepted or made by or on behalf of a political committee at a time when there is a vacancy in the office of chairman, or treasurer thereof. No expenditure shall be made for or on behalf of a political committee without the authorization of its chairman or treasurer, or their designated agents.

5/9-3. Every state political committee and every local political committee shall file with the State Board of Elections, and every local political committee shall file with the county clerk, a statement of organization within 10 business days of the creation of such committee, except any political committee created within the 30 days before an election shall file a statement of organization within 5 business days. A political committee that acts as both a state political committee and a local political committee shall file a copy of each statement of organization with the State Board of Elections and the county clerk. The Board shall impose a civil penalty of \$25 per business day upon political committees for failing to file or late filing of a statement of organization, except that for committees formed to support candidates for statewide office, the civil penalty shall be \$50 per business day. Such penalties shall not exceed \$5,000, and shall not exceed \$10,000 for statewide office political committees. There shall be no fine if the statement is mailed and postmarked at least 72 hours prior to the filing deadline. In addition to the civil penalties authorized by this section, the State Board of Elections or any other affected political committee may apply to the circuit court for a temporary restraining order or a preliminary or permanent injunction against the political committee to cease the expenditure of funds and to cease operations until the statement of organization is filed. For the purpose of this Section, "statewide office" means the Governor, Lieutenant Governor, Secretary of State, Attorney General, State Treasurer and State Comptroller. The statement of organization shall include –

- (a) the name and address of the political committee (the name of the political committee must include the name of any sponsoring entity);
- (b) the scope, area of activity, party affiliation, candidate affiliation, and his county of residence, and purposes of the political committee;
- (c) the name, address, and position of each custodian of the committee's books and accounts;

- (d) the name, address, and position of the committee's principal officers, including the chairman, treasurer, and officers and members of its finance committee, if any;
- (e) (Blank)
- (f) a statement of what specific disposition of residual funds will be made in the event of the dissolution or termination of the committee;
- (g) a listing of all banks or other financial institutions, safety deposit boxes, and any other repositories or custodians of funds used by the committee;
- (h) the amount of funds available for campaign expenditures as of the filing date of the committee's statement of organization.

For purposes of this Section, a "sponsoring entity" is (i) any person, political committee, organization, corporation, or association that contributes at least 33% of the total funding of the political committee or (ii) any person or other entity that is registered or is required to register under the Lobbyist Registration Act and contributes at least 33% of the total funding of the political committee; except that a political committee is not a "sponsoring entity" for purposes of this Section if it is a political committee organized by (i) an established political party as defined in Section 10-2, (ii) a partisan caucus of either house of the General Assembly, or (iii) the Speaker or Minority Leader of the House of Representatives or the President or Minority Leader of the Senate, in his or her capacity as a legislative leader of the House of Representatives or Senate and not as a candidate for Representative or Senator.

5/9-4. The statement of organization required by this Article to be filed in accordance with 5/9-3 shall be verified, dated, and signed by either the treasurer of the political committee making the statement or the candidate on whose behalf the statement is made, and shall contain substantially the following:

STATEMENT OF ORGANIZATION

- (a) name and address of the political committee:

- (b) scope, area of activity, party affiliation, candidate affiliation and his county of residence, and purposes of the political committee:

- (c) name, address and position of each custodian of the committee's books and accounts:

- (d) name, address, and position of the committee's principal officers, including the chairman, treasurer, and officers and members of its finance committee, if any:

- (e) a statement of what specific disposition of residual funds will be made in the event of the dissolution or termination of the committee:

- (f) a listing of all banks or other financial institutions, safety deposit boxes, and any other repositories or custodians of funds used by the committee:

- (g) the amount of funds available for campaign expenditures as of the filing date of the committee's statement of organization:

VERIFICATION:

"I declare that this statement of organization (including any accompanying schedules and statements) has been examined by me and to the best of my knowledge and belief is a true, correct, and complete statement of organization as required by Article 9 of The Election Code. I understand that willfully filing a false or incomplete statement is a business offense subject to a fine of at least \$1,001 and up to \$5000.

(date of filing)

(signature of person making statement)

5/9-5. Any change in information previously submitted in a statement of organization except for information submitted under 5/9-3 (h) shall be reported, as required of statements of organization by 5/9-3 of this Article, within 10 days following such change.

Any political committee which, after having filed a statement of organization, dissolves as a political committee or determines that it will no longer receive any campaign contributions nor make any campaign expenditures shall notify the Board, or the Board and the county clerk, as required of statements of organization by 5/9-3 of this Article, of that fact and file with the Board, or the Board and the county clerk, as required of statements of organization by 5/9-3 of this Article, a final report with respect to its contributions and expenditures, including the final disposition of its funds and assets.

In the event that a political committee dissolves, all contributions in its possession, after payment of the committee's outstanding liabilities, including staff salaries, shall be refunded to the contributors in amounts not exceeding their individual contributions, or transferred to other political or charitable organizations consistent with the positions of the committee or the candidates it represented. In no case shall these funds be used for the personal aggrandizement of any committee member or campaign worker.

5/9-6. Accounting for contributions,

- (a) Every person who receives a contribution in excess of \$20 for a political committee shall, on demand of the treasurer, and in any event within 5 days after receipt of such contribution, render to the treasurer a detailed account thereof, including the amount, the name and address of the person making such contribution, and the date on which it was received.
- (b) Within 5 business days of contributing goods or services of more than \$50 value to a political committee, the contributor shall certify the value of the contribution to the political committee on forms prescribed by the State Board of Elections. The forms shall include the name and address of the contributor, a description, and market value of the goods or services, and the date on which the contribution was made.
- (c) All funds of a political committee shall be segregated from, and may not be commingled with, any personal funds of officers, members, or associates of such committee.

5/9-7. The treasurer of a political committee shall keep a detailed and exact account of –

- (a) the total of all contributions made to or for the committee;
- (b) the full name and mailing address of every person making a contribution in excess of \$20 and the date and the amount thereof;
- (c) the total of all expenditures made by or on behalf of the committee;
the full name and mailing address of every person to whom any expenditure in excess of \$20 is made, and the date and amount thereof;
- (d) proof of payment, stating the particulars, for every expenditure in excess of \$20 made by or on behalf of the committee.

The treasurer shall preserve all records and accounts required by this section for a period of 2 years.

5/9-7.5. Nonprofit organization registration and disclosure.

- (a) Each nonprofit organization, except for a labor union, that accepts contributions, makes contributions, or makes expenditures during any 12-month period in an aggregate amount exceeding \$5,000 (I) on behalf of or in opposition to public officials, candidates for public office, or a question of public policy or (II) for electioneering communications shall register with the State Board of Elections. The Board by rule shall prescribe the registration procedure and form. The registration form shall require the following information:
 - (1) The registrant's name, address, and purpose.
 - (2) The name, address, and position of each custodian of the registrant's financial books, accounts, and records.
 - (3) The name, address, and position of each of the registrant's principal officers.
- (b) Each nonprofit organization required to register under subsection (a) shall file contribution and expenditure reports with the Board. The Board by rule shall prescribe the form, which shall require the following information:

- (1) The organization's name, address, and purpose.
- (2) The amount of funds on hand at the beginning of the reporting period.
- (3) The full name and address of each person who has made one or more contributions to or for the organization within the reporting period in an aggregate amount or value in excess of \$150, together with the amount and date of the contributions, and if a contributor is an individual who contributed more than \$500, the occupation and employer of the contributor or, if the occupation and employer are unknown, a statement that the organization has made a good faith effort to ascertain this information.
- (4) The total sum of individual contributions made to or for the organization during the reporting period and not reported in an item (3).
- (5) The name and address of each organization and political committee from which the reporting organization received or to which that organization made, any transfer of funds in an aggregate amount or value in excess of \$150, together with the amounts and dates of the transfers.
- (6) The total sum of transfers made to or from the organization during the reporting period and not reported in item (5).
- (7) Each loan to or from any person within the reporting period by or to the organization in an aggregate amount or value in excess of \$150, together with the full names and mailing addresses of the lender and endorsers, if any, and the date and amount of the loans, and if a lender or endorser is an individual who loaned or endorsed a loan of more than \$500, the occupation and employer of the individual or, if the occupation and employer of the individual are unknown, a statement that the organization has made a good faith effort to ascertain this information.
- (8) The total amount of proceeds received by the organization from (i) the sale of tickets for each dinner, luncheon, cocktail party, rally, and other fundraising event, (ii) mass collections made at those events, and (iii) sales of items such as buttons, badges, flags, emblems, hats, banners, literature, and similar materials.
- (9) Each contribution, rebate, refund, or other receipt in excess of \$150 received by the organization not otherwise listed under items (3) through (8), and if a contributor is an individual who contributed more than \$500, the occupation and employer of the contributor, or if the occupation and employer of the contributor are unknown, a statement that the organization has made a good faith effort to ascertain this information.
- (10) The total sum of all receipts by or for the organization during the reporting period.
- (11) The full name and mailing address of each person to whom expenditures have been made by the organization within the reporting period in an aggregate amount or value in excess of \$150, the amount, date, and purpose of each expenditure, and the question of public policy on behalf of which the expenditure was made.
- (12) The full name and mailing address of each person to whom an expenditure for personal services, salaries, and reimbursed expenses in excess of \$150 has been made and which is not otherwise reported, including the amount, date, and purpose of the expenditure.

(13)The total sum of expenditures made by the organization during the reporting period.

(14)The full name and mailing address of each person to whom the organization owes debts or obligations in excess of \$150 and the amount of the debts or obligations.

The State Board of Elections by rule shall define a “good faith effort”.

- (c) The reports required under subsection (b) shall be filed at the same times and for the same reporting periods as reports of campaign contributions and semi-annual reports of campaign contributions and expenditures required by this Article of political committees. The reports required under subsection (b) shall be available for public inspection and copying in the same manner as reports filed by political committees. The Board may charge a fee that covers the costs of copying and distribution, if any.
- (d) An organization required to file reports under subsection (b) shall include a statement on all literature and advertisements soliciting funds stating the following:

“A copy of our report filed with the State Board of Elections is (or will be) available for purchase from the State Board of Elections, Springfield, Illinois”.

5/9-8. Any political committee which solicits or receives contributions or makes expenditures on behalf of any candidate that is not authorized in writing by such candidate to do so shall include a notice on the face or front page of all literature and advertisements published and following all commercials broadcast, in connection with such candidate's campaign by such committee or on its behalf stating that the committee is not authorized by such candidate and that such candidate is not responsible for the activities of such committee.

5/9-8.10. Use of political committee and other reporting organization funds. (a) A political committee, or organization subject to Section 9-7.5, shall not make expenditures:

- (1) In violation of any law of the United States or of this State.
- (2) Clearly in excess of the fair market value of the services, materials, facilities, or other things of value received in exchange.
- (3) For satisfaction or repayment of any debts other than loans made to the committee or to the public official or candidate on behalf of the committee or repayment of goods and services purchased by the committee under a credit agreement. Nothing in this Section authorizes the use of campaign funds to repay personal loans. The repayments shall be made by check written to the person who made the loan or credit agreement. The terms and conditions of any loan or credit agreement to a committee shall be set forth in a written agreement, including but not limited to the method and amount of repayment that shall be executed by the chairman or treasurer of the committee at the time of the loan or credit agreement. The loan or agreement shall also set forth the rate of interest for the loan, if any, which may not substantially exceed the prevailing market interest rate at the time the agreement, is executed.
- (4) For the satisfaction or repayment of any debts or for the payment of any expenses relating to a personal residence. Campaign funds may not be used as collateral for home mortgages.

- (5) For clothing or personal laundry expenses, except clothing items rented by the public official or candidate for his or her own use exclusively for a specific campaign-related event, provided that committees may purchase costumes, novelty items, or other accessories worn primarily to advertise the candidacy.
 - (6) For the travel expenses of any person unless the travel is necessary for fulfillment of political, governmental, or public policy, activities, or purposes.
 - (7) For membership or club dues charged by organizations, clubs, or facilities that are primarily engaged in providing health, exercise, or recreational services; provided, however, that funds received under this Article may be used to rent the clubs or facilities for a specific campaign-related event.
 - (8) In payment for anything of value or for reimbursement of any expenditure for which any person has been reimbursed by the State or any person. For purposes of this item (8), a per diem allowance is not a reimbursement.
 - (9) For the purchase of or installment payment for a motor vehicle unless the political committee can demonstrate that purchase of a motor vehicle is more cost-effective than leasing a motor vehicle as permitted under this item (9). A political committee may lease or purchase and insure, maintain, and repair a motor vehicle if the vehicle will be used primarily for campaign purposes or for the performance of governmental duties. A committee shall not make expenditures for use of the vehicle for non-campaign or non-governmental purposes. Persons using vehicles not purchased or leased by the political committee may be reimbursed for actual mileage for the use of the vehicle for campaign purposes or for the performance of governmental duties. The mileage reimbursements shall be made at a rate not to exceed the standard mileage rate method for computation of business expenses under the Internal Revenue Code.
 - (10) Directly for an individual's tuition or other educational expenses, except for governmental or political purposes directly related to a candidate's or public official's duties and responsibilities.
 - (11) For payments to a public official or candidate or his or her family member unless for compensation for services actually rendered by that person. The provisions of this item (11) do not apply to expenditures by a political committee in an aggregate amount not exceeding the amount of funds reported to and certified by the State Board or county clerk as available as of June 30, 1998, in the semi-annual report of contributions and expenditures filed by the political committee for the period concluding June 30, 1998.
- (b) The Board shall have the authority to investigate, upon receipt of a verified complaint, violations of the provisions of this Section. The Board may levy a fine on any person who knowingly makes expenditures in violation of this Section and on any person who knowingly makes a malicious and false accusation of a violation of this Section. The Board may act under this subsection only upon the affirmative vote of at least 5 of its members. The fine shall not exceed \$500 for each expenditure of \$500 or less and shall not exceed the amount of the expenditure plus \$500 for each expenditure greater than \$500. The Board shall also have the authority to render rulings and issue opinions relating to compliance with this Section.
- (c) Nothing in this Section prohibits the expenditure of funds of (i) a political committee controlled by an officeholder or by a candidate or (ii) an organization subject to Section 9-7.5 to defray the customary and reasonable expenses of an officeholder in connection with the performance of governmental and public service functions.

5/9-8.15 Contributions on State property.

In addition to any other provision of this Code, the solicitation, acceptance, offer, and making of contributions on State property by public officials, State employees, candidates for elective office, and others are subject to the State Officials and Employees Ethics Act. If a political committee receives and retains a contribution that is in violation of Section 5-35 of the State Officials and Employees Ethics Act, then the State Board may impose a civil penalty upon that political committee in an amount equal to 100% of that contribution.

5/9-9. Any State political committee shall include on all literature and advertisements soliciting funds the following notice:

"A copy of our report filed with the State Board of Elections is (or will be) available for purchase from the State Board of Elections, Springfield, Illinois."

Any local political committee shall include on all literature and advertisements soliciting funds the following notice:

"A copy of our report filed with the county clerk is (or will be) available for purchase from the county clerk (county clerk's address), Illinois."

Any political committee that acts as both a state political committee and a local political committee shall include on all literature and advertisements soliciting funds the following notice:

"A copy of our report filed with the State Board of Elections and the county clerk is (or will be) available for purchase from the State Board of Elections, Springfield, Illinois, and from the county clerk, (county clerk's address), Illinois."

5/9-9.5. Disclosures in political communications. Any political committee, organized under the Election Code, that makes an expenditure for a pamphlet, circular, handbill, Internet or telephone communication, radio, television, or print advertisement, or other communication directed at voters and mentioning the name of a candidate in the next upcoming election shall ensure that the name of the political committee paying for any part of the communication, including, but not limited to, its preparation and distribution, is identified clearly within the communication as the payor. This Section does not apply to items that are too small to contain the required disclosure. Nothing in this Section shall require disclosure on any telephone communication using random sampling or other scientific survey methods to gauge public opinion for or against any candidate or question of public policy.

Whenever any vendor or other person provides any of the services listed in this Section, other than any telephone communication using random sampling or other scientific survey methods to gauge public opinion for or against any candidate or question of public policy, the vendor or person shall keep and maintain records showing the name and addresses of the person who purchased or requested the services and the amount paid for the services. The records required by this Section shall be kept for a period of one year after the date upon which payment was received for the services.

5/9-10. Financial Reports.

- (a) The treasurer of every state political committee and the treasurer of every local political committee shall file with the Board, and the treasurer of every local political committee shall file with the county clerk, reports of campaign contributions, and semi-annual reports of campaign contributions and expenditures on forms to be prescribed or approved by the Board. The treasurer of every political committee that acts as both a state political committee and a local political committee shall file a copy of each report with the State Board of Elections and the county clerk. Entities subject to Section 9-7.5 shall file reports required by that Section at times provided in this Section and are subject to penalties provided in this Section.
- (b) Reports of campaign contributions shall be filed no later than the 15th day next preceding each election including a primary election in connection with which the political committee has accepted or is accepting contributions or has made or is making expenditures. Such reports shall be complete as of the 30th day next preceding each election including a primary election. The Board shall assess a civil penalty not to exceed \$5,000 for a violation of this subsection, except that for State officers and candidates and political committee formed for statewide office, the civil penalty may not exceed \$10,000. The fine, however, shall not exceed \$500 for a first filing violation for filing less than 10 days after the deadline. There shall be no fine if the report is mailed and postmarked at least 72 hours prior to the filing deadline. For the purpose of this subsection, "statewide office" and "State officer" means the Governor, Lieutenant Governor, Attorney General, Secretary of State, Comptroller, and Treasurer. However, a continuing political committee that does not make expenditures in excess of \$500 on behalf of or in opposition to any candidate or public question on the ballot at an election shall not be required to file the reports heretofore prescribed but may file in lieu thereof a Statement of Nonparticipation in the Election with the Board or the Board and the county clerk; except that if the political committee, by the terms of its statement of organization filed in accordance with this Article, is organized to support or oppose a candidate or public question on the ballot at the next election or primary, that committee must file reports required by this subsection (b) and by subsection (b-5).
- (b-5) Notwithstanding the provisions of subsection (b), and Section 1.25 of the Statute on Statutes, any contribution of more than \$500 received in the interim between the last date of the period covered by the last report filed under subsection (b) prior to the election and the date of the election shall be filed with and must actually be received by the State Board of Elections within 2 business days after receipt of such contribution. The State Board shall allow filings of reports of contributions of more than \$500 under this subsection (b-5) by political committees that are not required to file electronically to be made by facsimile transmission. For the purpose of this subsection, a contribution is considered received on the date the public official, candidate, or political committee (or equivalent person in the case of a reporting entity other than a political committee) actually receives it or, in the case of goods or services, 2 business days after the date the public official, candidate, committee, or other reporting entity receives the certification required under subsection (b) of Section 9-6. Failure to report each contribution is a separate violation of this subsection. In the final disposition of any matter by the Board on or after the effective date of this amendatory act of the 93rd General Assembly, the Board may impose fines for violations of this subsection not to exceed 100% of the total amount of the contributions that were untimely reported, but in no case when a fine is imposed shall it be less than 10% of the total amount of

the contributions that were untimely reported. When considering the amount of the fine to be imposed, the Board shall consider, but is not limited to, the following factors:

- (1) whether in the Board's opinion the violation was committed inadvertently, negligently, knowingly, or intentionally;
 - (2) the number of days the contribution was reported late; and
 - (3) past violations of Sections 9-3 and 9-10 of this Article by the committee.
- (c) In addition to such reports the treasurer of every political committee shall file semi-annual reports of campaign contributions and expenditures no later than July 31st, covering the period from January 1st through June 30th immediately preceding, and no later than January 31st, covering the period from July 1st through December 31st of the preceding calendar year. Reports of contributions and expenditures must be filed to cover the prescribed time periods even though no contributions or expenditures may have been received or made during the period. The Board shall assess a civil penalty not to exceed \$5,000 for a violation of this subsection, except that for State officers and candidates and political committees formed for statewide office, the civil penalty may not exceed \$10,000. The fine, however, shall not exceed \$500 for a first filing violation for filing less than 10 days after the deadline. There shall be no fine if the report is mailed and postmarked at least 72 hours prior to the filing deadline. For the purpose of this subsection, "statewide office" and "State officer" means the Governor, Lieutenant Governor, Attorney General, Secretary of State, Comptroller, and Treasurer.
- (c-5) A political committee that acts as either (i) a State and local political committee or (ii) a local political committee and that files reports electronically under Section 9-28 is not required to file copies of the reports with the appropriate county clerk if the county clerk has a system that permits access to, and duplication of, reports that are filed with the State Board of Elections. A State and local political committee shall file with the county clerk a copy of its statement of organization pursuant to Section 9-3.
- (d) A copy of each report or statement filed under this Article shall be preserved by the person filing it for a period of two years from the date of filing.

5/9-11. Each report of campaign contributions under 5/9-10 shall disclose --

- (1) the name and address of the political committee;
- (2) (Blank)
- (3) the amount of funds on hand at the beginning of the reporting period;
- (4) the full name and mailing address of each person who has made one or more contributions to or for such committee within the reporting period in an aggregate amount or value in excess of \$150, together with the amount and date of such contributions, and if a contributor is an individual who contributed more than \$500, the occupation and employer of the contributor or, if the occupation and employer of the contributor are unknown, a statement that the committee has made a good faith effort to ascertain this information;
- (5) the total sum of individual contributions made to or for such committee during the reporting period and not reported under item (4);
- (6) the name and address of each political committee from which the reporting committee received, or to which that committee made, any transfer of funds, in any aggregate amount or value in excess of \$150, together with the

amounts and dates of all transfers;

- (7) the total sum of transfers made to or from such committee during the reporting period and not reported under item six (6);
- (8) each loan to or from any person within the reporting period by or to such committee in an aggregate amount or value in excess of \$150, together with the full names and mailing addresses of the lender and endorsers, if any, and the date and amount of such loans, and if a lender or endorser is an individual who loaned or endorsed a loan of more than \$500, the occupation and employer of that individual, or if the occupation and employer of the individual are unknown, a statement that the committee has made a good faith effort to ascertain this information;
- (9) the total amount of proceeds received by such committee from (a) the sale of tickets for each dinner, luncheon, cocktail party, rally, and other fund-raising events; (b) mass collections made at such events; and (c) sales of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, and similar materials;
- (10) each contribution, rebate, refund, or other receipt in excess of \$150 received by such committee not otherwise listed under items (4) through (9), and if a contributor is an individual who contributed more than \$500, the occupation and employer of the contributor or, if the occupation and employer of the contributor are unknown, a statement that the committee has made a good faith effort to ascertain this information.
- (11) the total sum of all receipts by or for such committee or candidate during the reporting period.

The Board shall by rule define a "good faith effort".

The reports of campaign contributions filed under this Article shall be cumulative during the reporting period to which they relate.

5/9-12. Each report of campaign contributions required by 5/9-10 of this Article to be filed with the Board or the Board and the county clerk shall be verified, dated, and signed by either the treasurer of the political committee making the report or the candidate on whose behalf the report is made, and shall contain substantially the following:

REPORT OF CAMPAIGN CONTRIBUTIONS

- (1) name and address of the political committee:

- (2) the date of the beginning of the reporting period, and the amount of funds on hand at the beginning of the reporting period:

- (3) the full name and mailing address of each person who has made one or more contributions to or for the committee within the reporting period in an aggregate amount or value in excess of \$150, together with the amount and date of such contributions, and if a contributor is an individual who contributed more than \$500, the occupation and employer of each contributor or, if the occupation and employer of the contributor are unknown, a

statement that the committee has made a good faith effort to ascertain this information:

name	address	amount	date	occupation	employer
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

- (4) the total sum of individual contributions made to or for the committee during the reporting period and not reported under item (3):

- (5) the name and address of each political committee from which the reporting committee received, or to which that committee made, any transfer of funds, in an aggregate amount or value in excess of \$150, together with the amounts and dates of all transfers:

name	address	amount	date
_____	_____	_____	_____
_____	_____	_____	_____

- (6) the total sum of transfers made to or from such committee during the reporting period and not reported under item (5):

- (7) each loan to or from any person within the reporting period by or to the committee in an aggregate amount or value in excess of \$150, together with the full names and mailing addresses of the lender and endorsers, if any, and the date and amount of such loans, and if a lender or endorser is an individual who loaned or endorsed a loan of more than \$500, the occupation and employer of each person making the loan, or if the occupation and employer of the individual are unknown, a statement that the committee has made a good faith effort to ascertain this information.

- (8) the total amount of proceeds received by the committee from (a) the sale of tickets for each dinner, luncheon, cocktail party, rally, and other fund-raising events; (b) mass collections made at such events, and (c) sales of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, and similar materials:

(a) _____

(b) _____

(c) _____

- (9) each contribution, rebate, refund, or other receipt in excess of \$150 received by the committee not otherwise listed under items (3) through (8), and if the contributor is an individual who contributed more than \$500, the occupation and employer of each contributor or, if the occupation and employer of the contributor are unknown, a statement that the

committee has made a good faith effort to ascertain this information:

name	address	amount	date	occupation	employer
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

(10) the total sum of all receipts by or for the committee during the reporting period:

VERIFICATION:

"I declare that this report of campaign contributions (including any accompanying schedules and statements) has been examined by me and to the best of my knowledge and belief is a true, correct, and complete report as required by Article 9 of The Election Code. I understand that willfully filing a false or incomplete statement is a business offense subject to a fine of up to \$5,000."

(date of filing)

(signature of person making the report)

5/9-13. Each semi-annual report of campaign contributions and expenditures under 5/9-10 shall disclose –

- (1) the name and address of the political committee;
- (2) (blank);
- (3) the amount of funds on hand at the beginning of the reporting period;
- (4) the full name and mailing address of each person who has made one or more contributions to or for such committee within the reporting period in an aggregate amount or value in excess of \$150, together with the amount and date of such contributions, and if the contributor is an individual who contributed more than \$500, the occupation and employer of the contributor or, if the occupation and employer of the contributor are unknown, a statement that the committee has made a good faith effort to ascertain this information;
- (5) the total sum of individual contributions made to or for such committee during the reporting period and not reported under item (4);
- (6) the name and address of each political committee from which the reporting committee received, or to which that committee made, any transfer of funds, in the aggregate amount or value in excess of \$150, together with the amounts and dates of all transfers;
- (7) the total sum of transfers made to or from such committee during the reporting period and not reported under item six (6);
- (8) each loan to or from any person within the reporting period by or to such committee in an aggregate amount or value in excess of \$150, together with the full names and mailing addresses of the lender and endorsers, if any, and the date and amount of such loans, and if a lender or endorser is an individual who loaned or endorsed a loan of more than \$500, the occupation and employer of that individual, or if the occupation and employer of the individual are unknown, a statement that the committee has made a good faith effort to ascertain this information;
- (9) the total amount of proceeds received by such committee from (a) the sale of tickets for each dinner, luncheon,

- cocktail party, rally, and other fund-raising events; (b) mass collections made at such events; and (c) sales of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, and similar materials;
- (10) each contribution, rebate, refund, or other receipt in excess of \$150 received by such committee not otherwise listed under items (4) through (9), and if the contributor is an individual who contributed more than \$500, the occupation and employer of the contributor or, if the occupation and employer of the contributor are unknown, a statement that the committee has made a good faith effort to ascertain this information;
- (11) the total sum of all receipts by or for such committee or candidate during the reporting period;
- (12) the full name and mailing address of each person to whom expenditures have been made by such committee or candidate within the reporting period in an aggregate amount or value in excess of \$150, the amount, date, and purpose of each such expenditure and the question of public policy or the name and address of, and office sought by, each candidate on whose behalf such expenditure was made;
- (13) the total sum of expenditures made by such committee during the reporting period;
- (14) the full name and mailing address of each person to whom the committee owes debts or obligations in excess of \$150, and the amount of such debts or obligations.
- (15) the full name and mailing address of each person to whom the committee owes debts or obligations in excess of \$150, and the amount of such debt or obligations.

The Board shall by rule define a "good faith effort".

5/9-14. Each semi-annual report of campaign contributions and expenditures required by 5/9-10 of this Article to be filed with the Board or the Board and the county clerk shall be verified, dated, and signed by either the treasurer of the political committee making the report or the candidate on whose behalf the report is made, and shall contain substantially the following:

SEMI-ANNUAL REPORT OF CAMPAIGN CONTRIBUTIONS AND EXPENDITURES

- (1) name and address of the political committee:
-

- (2) the date of the beginning of the reporting period, and the amount of funds on hand at the beginning of the reporting period:
-

- (3) the full name and mailing address of each person who has made one or more contributions to or for the committee within the reporting period in an aggregate amount or value in excess of \$150, together with the amount and date of such contributions, and if a contributor is an individual who contributed more than \$500, the occupation and employer of each contributor or, if the occupation and employer of the contributor are unknown, a statement that the committee has made a good faith effort to ascertain this information:

name	address	amount	date	occupation	employer
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

- (4) the total sum of individual contributions made to or for the committee during the reporting period and not reported under item (3):

- (5) the name and address of each political committee from which the reporting committee received, or to which that committee made, any transfer of funds, in an aggregate amount or value in excess of \$150, together with the amounts and dates of all transfers:

name	address	amount	date	endorsers	occupation	employer
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____

- (6) the total sum of transfers made to or from such committee during the reporting period and not reported under item five (5);

- (7) each loan to or from any person within the reporting period by or to the committee in an aggregate amount or value in excess of \$150, together with the full names and mailing addresses of the lender and endorsers, if any, and the date and amount of such loans, and if a lender or endorser is an individual who loaned or endorsed a loan of more than \$500, the occupation and employer of each person making the loan, or if the occupation and employer of the individual are unknown, a statement that the committee has made a good faith effort to ascertain this information:

name	address	amount	date	endorsers	occupation	employer
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____

- (8) the total amount of proceeds received by the committee from (a) the sale of tickets for each dinner, luncheon, cocktail party, rally, and other fund-raising events; (b) mass collections made at such events; and (c) sales of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, and similar materials:

(a) _____

(b) _____

(c) _____

- (9) each contribution, rebate, refund, or other receipt in excess of \$150 received by the committee not otherwise listed under items (3) through (8), and if a contributor is an individual who contributed more than \$500, the occupation and employer of each contributor or, if the occupation and employer of the contributor are unknown, a statement that the committee has made a good faith effort to ascertain this information:

name	address	amount	date	endorsers	occupation	employer
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____

- (10) the total sum of all receipts by or for the committee during the reporting period:

- (11) the full name and mailing address of each person to whom expenditures have been made by the committee within the reporting period in an aggregate amount or value in excess of \$150, the amount, date, and purpose of each such expenditure and the question of public policy or the name and address of, and office sought by, each candidate on whose behalf the expenditure was made:

name	address	amount	date	purpose	beneficiary
_____	_____	_____	_____	_____	_____

- (12) the full name and mailing address of each person to whom an expenditure for personal services, salaries, and reimbursed expenses in excess of \$150 has been made, and which is not otherwise reported, including the amount, date, and purpose of such expenditure:

name	address	amount	date	purpose
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

- (13) the total sum of expenditures made by the committee during the reporting period;

- (14) the full name and mailing address of each person to whom the committee owes debts or obligations in excess of \$150, and the amount of such debts or obligations:

VERIFICATION:

"I declare that this semi-annual report of campaign contributions and expenditures (including any accompanying schedules and statements) has been examined by me and to the best of my knowledge and belief is a true, correct, and complete report as required by Article 9 of The Election Code. I understand that willfully filing a false or incomplete report is a business offense subject to a fine of up to \$5,000."

(date of filing)

(signature of person making the report)

5/9-15. It shall be the duty of the Board --

- (1) to develop prescribed forms for notice to political committees of their obligations under this Article and for identification of persons examining statements or reports filed under this Article, and to supply such forms, and the forms for filing statements of organization, reports of campaign contributions, and semi-annual reports of campaign contributions and expenditures to the appropriate persons and election authorities;
- (2) to prepare, publish, and furnish to the appropriate persons and election authorities a manual of instructions setting forth recommended uniform methods of bookkeeping and reporting under this Article;
- (3) to prescribe suitable rules and regulations to carry out the provisions of this Article. Such rules and regulations shall be published and made available to the public at reasonable cost. The Board may determine which of its prescribed rules and regulations shall be binding on the county clerks in carrying out their duties under this Article;
- (4) to send by first class mail, after the general primary election in even numbered years, to the chairman of each regularly constituted State central committee, county central committee and, in counties with a population of more than 3,000,000, to the committeemen of each township and ward organization of each political party notice of their obligations under this Article, along with a form for filing the statement of organization.

5/9-16. It shall be the duty of the Board and of each county clerk --

- (1) to make the reports and statements filed with them available for public inspection and copying, commencing as soon as practicable but not later than the end of the second day following the day during which it was received, and to permit copying of any such report or statement by hand or at cost by duplicating machine, as requested by any person, at the expense of such person;
- (2) to preserve such reports and statements for a period of 2 years from the date of receipt;
- (3) to develop a filing, coding, and cross-indexing system consonant with the purposes of this Article;
- (4) to compile and maintain a current list of all statements or parts of statements pertaining to each candidate;
- (5) to prepare and publish such reports as the Board or county clerk may deem appropriate;
- (6) to report apparent violations of law to the appropriate law enforcement authorities; and
- (7) to provide to each candidate at the time he files his nomination papers a notice of obligations under this Article. Said notice shall state that the manual of instructions and forms for the statements required to be filed under this Article are available from the Board or the county clerk upon request. Said notice shall be given each candidate by the Board or county clerk and the candidate shall receipt therefor. However, if a candidate files his nomination papers by mail or if an agent of the candidate files nomination papers on behalf of the candidate, the Board or the county clerk

shall within 2 business days of the day and hour endorsed on the petition send such notice to the candidate by first class mail. Such notice shall briefly outline who is required to file under the campaign disclosure law and the penalties for failure to file.

Thereafter, at least 30 days before each filing date for reports of campaign contributions and for semi-annual reports of campaign contributions and expenditures, the Board shall send by first class mail to each political committee that has filed a statement of organization with the Board or the Board and the county clerk, a notice of obligations under this Article, and appropriate forms for filing the report. The notice shall contain a statement that the manual of instructions is available from the Board or the county clerk upon request.

The Board or the appropriate clerk shall preserve the receipts for said packets and notices for a period of 2 years from the date of receipt.

5/9-17. All statements and reports filed under this Article with the Board or county clerk shall be available for examination and copying by the public at all reasonable times.

Any person who alters or falsifies information on a copy of a statement or report obtained from the State Board of Elections or the county clerk pursuant to Article 9 of this Code and publishes, circulates or distributes such altered or falsified information with the intent to misrepresent contributions received or expenditures made by a candidate or political committee shall be guilty of a Class B misdemeanor.

Any person who shall sell or utilize information copied from statements and reports filed with the State Board of Elections or the county clerk pursuant to Article 9 of this Code for the purpose of soliciting contributions or for the purpose of business solicitation shall be guilty of a Class B misdemeanor.

5/9-18. The Board may hold investigations, inquiries, and hearings concerning any matter covered by this Article, subject to such rules and regulations as the Board may establish. In the process of holding such investigations, inquiries and hearings, the Board may administer oaths and affirmations, certify to all official acts, issue subpoenas to be authorized by a vote of 5 members of the Board, compel the attendance and testimony of witnesses, and the production of papers, books, accounts, and documents. Hearings conducted by the Board shall be open to the public.

5/9-19. The Board may hire such investigators, examiners and hearing officers as may be necessary to carry out its functions under this Article, and may by regulation delegate any of its duties or functions under Sections 9-18 and 9-21 of this Article to such persons, except that final judgments and orders shall be issued only by the Board. Reports of violations under Section 9-23 shall be made only by the Board.

5/9-20. Any person who believes a violation of this Article has occurred may file a verified complaint with the Board. Such verified complaint shall be directed to a candidate or the chairman or treasurer of a political committee, and shall be subject to the following requirements.

- (1) The complaint shall be in writing.
- (2) The complaint shall state the name of the candidate or chairman or treasurer of a political committee against whom the complaint is directed.
- (3) The complaint shall state the statutory provisions which are alleged to have been violated;
- (4) The complaint shall state the time, place, and nature of the alleged offense.

The complaint shall be verified, dated, and signed by the person filing the complaint in substantially the following manner:

VERIFICATION:

"I declare that this complaint (including any accompanying schedules and statements) has been examined by me and to the best of my knowledge and belief is a true and correct complaint as required by Article 9 of The Election Code. I understand that the penalty for willfully filing a false complaint shall be a fine not to exceed \$500 or imprisonment in a penal institution other than the penitentiary not to exceed 6 months, or both fine and imprisonment."

(date of filing)

(signature of person filing the complaint)

5/9-21. Upon receipt of such complaint, the Board shall hold a closed preliminary hearing to determine whether or not the complaint appears to have been filed on justifiable grounds. Such closed preliminary hearing shall be conducted as soon as practicable after affording reasonable notice, a copy of the complaint, and an opportunity to testify at such hearing to both the person making the complaint and the person against whom the complaint is directed. If the Board fails to determine that the complaint has been filed on justifiable grounds, it shall dismiss the complaint without further hearing.

Whenever in the judgment of the Board, after affording due notice and an opportunity for a public hearing, any person has engaged or is about to engage in an act or practice which constitutes or will constitute a violation of any provision of this Article or any regulation or order issued thereunder, the Board shall issue an order directing such person to take such action as the Board determines may be necessary in the public interest to correct the violation. In addition, if the act or practice engaged in consists of the failure to file any required report within the time prescribed by this Article, the Board, as part of its order, shall further provide that if, within the 12-month period following the issuance of the order, such person fails to file within the time prescribed by this Article any subsequent report as may be required, such person may be subject to a civil penalty pursuant to Section 9-23. The Board shall render its final judgment within 60 days of the date the complaint is filed; except that during the 60 days preceding the date of the election in reference to which the complaint is filed, the Board shall render its final judgment within 7 days of the date the complaint is filed, and during the 7 days preceding such election, the Board shall render such judgment before the date of such election, if possible.

At any time prior to the issuance of the Board's final judgment, the parties may dispose of the complaint by a written stipulation, agreed settlement or consent order. Any such stipulation, settlement or order shall, however, be submitted in writing to the Board and shall become effective only if approved by the Board. If the act or practice complained of consists of the failure to file any required report within the time prescribed by this Article, such stipulation, settlement or order may provide that if, within the 12-month period following the approval of such stipulation, agreement or order, the person complained of fails to file within the time prescribed by this Article any subsequent reports as may be required, such

person may be subject to a civil penalty pursuant to Section 9-23.

Any person filing a complaint pursuant to Section 9-20 may, upon written notice to the other parties and to the Board, voluntarily withdraw the complaint at any time prior to the issuance of the Board's final determination.

5/9-22. Any party to a Board hearing, any person who files a complaint on which a hearing was denied or not acted upon within the time specified in Section 9-21 of this Act, and any party adversely affected by a judgment of the Board may obtain judicial review, which shall be governed by the provisions of the "Administrative Review Act," as amended, and all amendments and modifications thereof and the rules adopted pursuant thereto, except that --

- (1) such judicial review shall be afforded directly in the Appellate Court for the District in which the cause of action arose and not in the Circuit Court,
- (2) such judicial review shall be obtained by filing a petition for review within 7 days after entry of the order of other action complained of,
- (3) the time limit for filing such petition for review may be waived with the consent of all parties involved, and
- (4) if such petition for review is appealing an order of the Board, the effect of such order of the Board shall not be stayed unless the Appellate Court so orders upon the motion of the petitioner and upon prior notice to the Board.

5/9-23. Whenever the Board, pursuant to 5/9-21, has issued an order, or has approved a written stipulation, agreed settlement or consent order, directing a person determined by the Board to be in violation of any provision of this Article or any regulation adopted thereunder, to cease or correct such violation or otherwise comply with this Article and such person fails or refuses to comply with such order, stipulation, settlement or consent order within the time specified by the Board, the Board, after affording notice and an opportunity for a public hearing, may impose a civil penalty on such person in an amount not to exceed \$5,000; except that for State officers and candidates and political committees formed for statewide office, the civil penalty may not exceed \$10,000. For the purpose of this Section, "statewide office" and "State officer" means the Governor, Lieutenant Governor, Attorney General, Secretary of State, Comptroller, and Treasurer.

Civil penalties imposed on any such person by the Board shall be enforceable in the Circuit Court. The Board shall petition the Court for an order to enforce collection of the penalty and, if the Court finds it has jurisdiction over the person against whom the penalty was imposed, the Court shall issue the appropriate order. Any civil penalties collected by the Court shall be forwarded to the State Treasurer.

In addition to or in lieu of the imposition of a civil penalty, the Board may report such violation and the failure or refusal to comply with the order of the Board to the Attorney General and the appropriate State's Attorney.

5/9-24. The Board may also petition the Circuit Court to issue an order of the Court compelling compliance with an order issued by the Board, or to restrain or prohibit a person who is engaging or has engaged in acts or practices which constitute a violation of any provision of this Article from engaging in such acts or practices. If the Court finds that it has jurisdiction over the person of the alleged violator and that a violation has occurred or is occurring by reasons of the acts or practices of such person, the Court shall issue the appropriate order.

5/9-25. No person shall make an anonymous contribution or contribution in the name of another person, and no person shall knowingly accept any anonymous contribution or contribution made by one person in the name of another person. Anonymous contributions shall escheat to the State of Illinois. Any political committee that receives such contribution shall forward it immediately to the State Treasurer.

5/9-25.1

- (a) As used in this Section, "public funds" means any funds appropriated by the Illinois General Assembly or by any political subdivision of the State of Illinois.
- (b) No public funds shall be used to urge any elector to vote for or against any candidate or proposition, or be appropriated for political or campaign purposes to any candidate or political organization. This Section shall not prohibit the use of public funds for dissemination of factual information relative to any proposition appearing on an election ballot, or for dissemination of information and arguments published and distributed under law in connection with a proposition to amend the Constitution of the State of Illinois.
- (c) The first time any person violates any provision of this Section, that person shall be guilty of a Class B misdemeanor. Upon the second or any subsequent violation of any provision of this Section, the person violating any provision of this Section shall be guilty of a Class A misdemeanor.

5/9-25.2 Contributions; candidate or treasurer of political committee.

- (a) No candidate may knowingly receive any contribution solicited or received in violation of Section 33-3.1 or Section 33-3.2 of the Criminal Code of 1961.
- (b) The receipt of political contributions in violation of this Section shall constitute a Class A misdemeanor.
The appropriate State's Attorney or the Attorney General shall bring actions in the name of the people of the State of Illinois.

5/9-26. Willful failure to file or willful filing of false or incomplete information required by this Article shall constitute a business offense subject to a fine of up to \$5,000.

Willful filing of a false complaint under this Article shall constitute a Class B misdemeanor.

A prosecution for any offense designated by this Article shall be commenced no later than 18 months after the commission of the offense.

The appropriate State's Attorney or the Attorney General shall bring such actions in the name of the people of the State of Illinois.

5/9-27. As to any civil or criminal proceedings instituted under this Article, venue shall lie in the county where the political committee was organized or in the county where the defendant resides.

5/9-27.5. Fundraising in Sangamon County. In addition to any other provision of this Code, fundraising events in Sangamon County by certain executive branch officers and candidates, legislative branch members and candidates,

political caucuses, and political committees are subject to the State Officials and Employees Ethics Act. If a political committee receives and retains a contribution that is in violation of Section 5-40 of the State Officials and Employees Ethics Act, then the State Board may impose a civil penalty upon that political committee in an amount equal to 100% of that contribution.

5/9-28. Electronic filing and availability. The Board shall by rule provide for the electronic filing of expenditure and contribution reports as follows:

Beginning July 1, 1999, or as soon thereafter as the Board has provided adequate software to the political committee, electronic filing is required for all political committees that during the reporting period (i) had at any time a balance or an accumulation of contributions of \$25,000 or more, (ii) made aggregate expenditures of \$25,000 or more, or (iii) received loans of an aggregate of \$25,000 or more.

Beginning July 1, 2003, electronic filing is required for all political committees that during the reporting period (i) had at any time a balance or an accumulation of contributions of \$10,000 or more, (ii) made aggregate expenditures of \$10,000 or more, or (iii) received loans of an aggregate of \$10,000 or more.

The Board may provide by rule for the optional electronic filing of expenditure and contribution reports for all other political committees. The Board shall promptly make all reports filed under this Article by all political committees publicly available by means of a searchable database that is accessible through the World Wide Web.

The Board shall provide all software necessary to comply within this Section to candidates, public officials, political committees, and election authorities.

The Board shall implement a plan to provide computer access and assistance to candidates, public officials, political committees, and election authorities with respect to electronic filings required under this Article.

For the purposes of this Section, "political committees" includes entities required to report to the Board under Section 9-7.5.

5/9-30. Ballot forfeiture. The name of a person who has not paid a civil penalty imposed against him or her under this Article shall not appear upon any ballot for any office in any election while the penalty is unpaid.

SUPPLEMENTARY STATUTES

10 ILCS 5/7-12(7). The State Board of Elections or the appropriate election authority or local election official with whom such a petition for nomination is filed shall notify the person for whom a petition for nomination has been filed of the obligation to file statements of organization, reports of campaign contributions, and semi-annual reports of campaign contributions and expenditures under Article 9 of this Act. Such notice shall be given in the manner prescribed by paragraph (7) of 5/9-16 of this Code.

10 ILCS 5/10-6.1. The board or clerk with whom a certificate of nomination or nomination papers are filed shall notify the person for whom such papers are filed of the obligation to file statements of organization, reports of campaign

contributions, and semi-annual reports of campaign contributions and expenditures under Article 9 of this Act. Such notice shall be given in the manner prescribed by paragraph (7) of Section 9-16 of this Code. (Amended by Public Act 81-1189 effective 11/29/79.)

105 ILCS 5/9-10(6). The secretary of the board of education shall notify the candidates for whom a petition for nomination is filed or the appropriate committee of the obligations under the Campaign Financing Act as provided in the general election law. Such notice shall be given on a form prescribed by the State Board of Elections and in accordance with requirements of the general election law.

60 ILCS, 5/6A-1. The clerk of the township or board of election commissioners, as the case may be, shall notify the person for whom such nomination papers are filed of the obligation to file statements of organization, reports of campaign contributions, and annual reports of campaign contributions and expenditures in the manner prescribed by the general election law.

10 ILCS 5/29B-10. Code of Fair Campaign Practices. At the time a political committee, as defined in Article 9, files its statement of organization, the State Board of Elections, in the case of a state political committee or a political committee acting as both a state political committee and a local political committee, or the county clerk, in the case of a local political committee, shall give the political committee a blank form of the Code of Fair Campaign Practices and a copy of the provisions of this Article. The State Board of Elections or county clerk shall inform each political committee that subscription to the Code is voluntary.

230 ILCS 15/0.01 et seq. A political committee who has a statement of organization on file may apply to the State Board of Elections for an application to conduct a raffle. An application for a license to conduct a raffle shall be made on forms provided by the Board and must supply, over the oath of the applicant, all information requested on the application form.

720 ILCS 5/33-3.1 Solicitation misconduct (State government).

- (a) An employee of an executive branch constitutional officer commits solicitation misconduct (State government) when, at any time, he or she knowingly solicits or receives contributions, as that term is defined in Section 9-1.4 of the Election Code, from a person engaged in a business or activity over which the person has regulatory authority.
- (b) For the purpose of this Section, "employee of an executive branch constitutional officer" means a full-time or part-time employee, full-time or part-time salaried appointee, or any contractual employee of any office, board, commission, agency, department, authority, administrative unit, or corporate outgrowth under the jurisdiction of an executive branch constitutional officer; and "regulatory authority" means having the responsibility to investigate, inspect, license, or enforce regulatory measures necessary to the requirements of any State or federal statute or regulation relating to the business or activity.
- (c) An employee of an executive branch constitutional officer, including one who does not have regulatory authority, commits a violation of this Section if that employee knowingly acts in concert with an employee of an executive branch constitutional officer who does have regulatory authority to solicit or receive contributions in violation of this Section.
- (d) Solicitation misconduct (State government) is a Class A misdemeanor. An employee of an executive branch constitutional officer convicted of committing solicitation misconduct (State government) forfeits his or her employment.

- (e) An employee of an executive branch constitutional officer who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of lawful acts done by the employee or on behalf of the employee or others in furtherance of the enforcement of this Section shall be entitled to all relief necessary to make the employee whole.
- (f) Any person who knowingly makes a false report of solicitation misconduct (State government) to the State Police, the Attorney General, a State's Attorney, or any law enforcement official is guilty of a Class C misdemeanor.

720 ILCS 5/33-3.2 Solicitation misconduct (local government)

- (a) An employee of a chief executive officer of a local government commits solicitation misconduct (local government) when, at any time, he or she knowingly solicits or receives contributions, as that term is defined in Section 9-1.4 of the Election Code, from a person engaged in a business or activity over which the person has regulatory authority.
- (b) For the purpose of this Section, "chief executive officer of a local government" means an executive officer of a county, township or municipal government or any administrative subdivision under jurisdiction of the county, township, or municipal government including but not limited to: chairman or president of a county board or commission, mayor or village president, township supervisor, county executive, municipal manager, assessor, auditor, clerk, coroner, recorder, sheriff or State's Attorney; "employee of a chief executive officer of a local government" means a full-time or part-time salaried employee, full-time or part-time salaried appointee, or any contractual employee of any office, board, commission, agency, department, authority, administrative unit, or corporate outgrowth under the jurisdiction of a chief executive officer of a local government" and "regulatory authority" means having the responsibility to investigate, inspect, license, or enforce regulatory measures necessary to the requirements of any State, local, or federal statute or regulation relating to the business or activity.
- (c) An employee of a chief executive officer of a local government, including one who does not have regulatory authority, commits a violation of this Section if that employee knowingly acts in concert with an employee of a of a chief executive officer of a local government who does have regulatory authority to solicit or receive contributions in violation of this Section.
- (d) Solicitation misconduct (local government) is a Class A misdemeanor. An employee of a chief executive officer of a local government convicted of committing solicitation misconduct (local government) forfeits his or her employment.
- (e) An employee of a chief executive officer of a local government who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of lawful acts done by the employee or on behalf of the employee or others in furtherance of the enforcement of this Section shall be entitled to all relief necessary to make the employee whole.
- (f) Any person who knowingly makes a false report of solicitation misconduct (local government) to the State Police, the Attorney General, a State's Attorney, or any law enforcement official is guilty of a Class C misdemeanor.

5 ILCS 430/5-35 Contributions on State Property

Contributions shall not be intentionally solicited, accepted, offered, or made on State property by public officials, by State employees, by candidates for elective office, by persons required to be registered under the Lobbyist Registration Act, or by any officers, employees, or agents of any political organization, except as provided in this Section. For purposes of this Section, "State property" means any building or portion thereof owned or exclusively leased by the State or any State agency at the time the contribution is solicited, offered, accepted, or made. State property" does not however, include any portion of a building that is rented or leased from the State or any State agency by a private person or entity.

An inadvertent solicitation, acceptance, offer, or making of a contribution is not a violation of this Section so long as reasonable and timely action is taken to return the contribution to its source.

The provisions of this Section do not apply to the residences of State officers and employees, except that no fundraising events shall be held at residences owned by the State or paid for, in whole or in part, with State funds.

5 ILCS 430/5-40 Fundraising in Sangamon County

Except as provided in this Section, any executive branch constitutional officer, any candidate for an executive branch constitutional office, any member of the General Assembly, any candidate for the General Assembly, any political caucus of the General Assembly, or any political committee on behalf of any of the foregoing may not hold a fundraising function in Sangamon County on any day the legislature is in session (i) during the period beginning February 1 and ending on the later of the actual adjournment dates of either house of the spring session and (ii) during the fall veto session. For purposes of this Section, the legislature is not considered to be in session on a day that is solely a perfunctory session day or on a day when only a committee is meeting.

During the period beginning June 1 and ending on the first day of fall veto session each year, this Section does not apply to (i) a member of the General Assembly whose legislative or representative district is entirely within Sangamon County or (ii) a candidate for the General Assembly from that legislative or representative district. Title 26: Elections

CHAPTER 1: STATE BOARD OF ELECTIONS

Part 100 The Campaign Financing Act

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AUTHORITY: Implementing Article 9 of the Election Code [10 ILCS 5/Art. 9] and authorized by Section 9-15(3) of the Election Code [10 ILCS 5/9-15(3)].

SOURCE: Amended at 5 Ill. Reg. 1337, effective January 30, 1981; amended at 5 Ill. Reg. 12115, effective October 26, 1981; codified at 6 Ill. Reg. 7211; amended at 7 Ill. Reg. 225, effective December 16, 1982; amended at 14 Ill. Reg. 10824, effective June 22, 1990; amended at 16 Ill. Reg. 6982, effective April 21, 1992; amended at 18 Ill. Reg. 14707, effective September 9, 1994; amended at 21 Ill. Reg. 10044, effective July 21, 1997; emergency amendment at 23 Ill. Reg. 719, effective January 4, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 6796, effective May 24, 1999; emergency amendment at 24 Ill. Reg. 13039, effective August 9, 2000, for a maximum of 150 days; emergency expired January 5, 2001; amended at 24 Ill. Reg. 14214, effective September 11, 2000; amended at 29 Ill. Reg. 18785, effective November 7, 2005.

Section 100.10 DEFINITIONS

(a) Anything of Value

- (1) Reference: This Part interprets or applies Sections 9-1.4, 9-1.5 and 9-1.12 of the Election Code [10 ILCS 5/9-1.4, 5/9-1.5, 5/9-1.12].
- (2) The term "anything of value", as used in Sections 9-14, 9-15 and 9-1.12 of the Act, includes all things, services

or goods regardless of whether they may be valued in monetary terms according to ascertainable market value.

- (3) "Anything of value" which does not have an ascertainable market value may be reported by describing the thing, services or goods contributed, however nothing in this subsection (a) (3) relieves a committee or a contributor of the duty to provide as accurate an assessment of value as possible.
- (4) For purposes of reporting campaign receipts and expenses, income from investments shall be included as receipts during the reporting period they are actually received. The gross purchase price of each investment shall be reported as an expenditure at time of purchase. Net proceeds from the sale of an investment shall be reported as a receipt. During the period investments are held they shall be identified by name and quantity of security or instrument on each semi-annual report during the period. The value of each instrument as of the day the reporting period closes shall be included for each asset held as an investment.
- (5) In addition to the items expressly exclude in the Act, the term "anything of value" shall not be deemed to include:
 - (A) Any unreimbursed payments for travel or living expenses related to travel made by an individual who volunteers services on behalf of a candidate or political committee;
 - (B) Any news story, commentary, endorsement, or editorial of any broadcasting station, newspaper, magazine or other periodical publication;
 - (C) Any regular publication by a membership organization, labor union or corporation to its officers, employees, members or stockholders, so long as the membership organization or corporation is not organized primarily for the purpose of influencing nomination for election, or election, of any candidate, or supporting or opposing any question or questions of public policy. However, publications of an extraordinary or special nature to support or oppose a candidate or candidates or a question or questions of public policy would constitute a campaign contribution or expenditure;
 - (D) The occasional use of real property for the purpose of conveying information to officers, employees, members or stockholders and their families of a person or whoever as defined in Section 9-1.6 of the Illinois Campaign Financing Act and as defined in Section 100.10(b) of these Rules and Regulations, including but not limited to the use of such premises for the purpose of a candidate communicating directly with such officers, employees, members or stockholders and their families;
 - (E) Unrealized appreciation or loss of value of investments during the period they are held.

(b) Assets

- (1) Reference: This definition of asset interprets or applies to Section 9-5 of the Election Code.
- (2) An asset is an item of property, other than cash or services, of whatever kind, tangible or intangible, that has either a fair market or salvage value in excess of \$150.

(c) Candidate

- (1) Reference: This part interprets or applies Section 9-1.3 of the Election Code.
- (2) "Candidate" as that term is defined in Section 9-1.3 of the Act (10 ILCS 5/9-1.3) shall include, but not by way of limitation.:
 - (A) A person who circulates or authorizes the circulation of nominating petitions on his behalf for public office;
 - (B) An individual who receives contributions or makes expenditures or gives consent for any other person to receive or make expenditures with a view to bringing about his nomination for election or re-election to any office;

(C) Any judicial incumbent who qualifies for retention.

(d) Filing

To constitute a "filing" as used in the Act and in these Rules, the Statement, Report, or document must be in apparent and substantial conformity with the requirements of the Act. "Apparent and substantial conformity" requires that the filing contain the following:

- (1) The signature of the person making the filing;
- (2) Completion of all applicable sections of the report; and
- (3) Attachment of all appropriate schedules.

Inadvertent error or omission of a de minimus nature in the completion of report, statement, or document shall not be deemed to a "willful failure to file or a willful filing of false or incomplete information" pursuant to Section 9-26 of the Act.

(e) Statement of Organization

- (1) Reference: This provision interprets Section 9-3 of the Election Code (10 ILCS 5/9-3)
- (2) A committee officer must, in filling out the Form D-1, use the name which appears on his or her birth certificate, baptismal record, voter's registration card, statement of candidacy or nominating petition, or any other name by which the officer is commonly known in the community in which the officer resides. Aliases created for the purpose of filing under Article 9 of the Election Code may not be used.

(f) Person or Whoever

- (1) Reference: This subsection interprets or applies Section 9-1.6 of the Election Code.
- (2) The terms "other organizations" or "groups of persons" as defined in Section 9-1.6 of the Act shall include, but not by way of limitation: all for-profit and not-for-profit corporations; labor unions; trade associations or other such groups; religious organizations; fraternal societies; luncheon and dinner organizations.

(g) Political Committee

- (1) Reference: This subsection interprets or applies Section 9-1.9 of the Election Code.
- (2) A person or whoever as defined in the Illinois Campaign Financing Act, Section 9-1.6 (10 ILCS 5/9-1.6), and as defined in Section 100.10 (b) of this Part does not qualify as a political committee pursuant to the Illinois Campaign Financing Act by simply making a contribution from his or her personal income or profits regardless of the amount of the donations.
- (3) If a person or whoever solicits or receives funds for political purposes or acts as a conduit for political funds, he or she would, in fact, become a political committee and have to comply with all provisions of the Illinois Campaign Financing Act.

(h) Signature

- (1) Reference: This subsection interprets or applies Sections 9-4, 9-12 and 9-14 of the Election Code.
- (2) The terms "signature" or "signed" as used in Article 9 of the Election Code, and as used in the Rules and Regulations implementing the Election Code, includes electronic signatures attached to and made a part of electronic records submitted to the State Board of Elections pursuant to Section 5/9-28 of the Election Code.

(Source: Amended at 24 Ill. Reg. 14214, effective September 11, 2000.)

Section 100.20 OFFICIAL FORMS

- (a) Reference: This section interprets or applies Sections 9-10(a) and 9-15(1) of the Election Code.
- (b) Political committees are required to use only the official forms or photostatic copies of official forms and appropriate schedules approved by the State Board of Elections when filing any disclosure reports except as otherwise permitted under Section 100.80. Alternative methods of reporting are prohibited unless prior written approval has been received by the political committee from the State Board of Elections. Prior written approval will be given based on the compatibility of alternative methods with the Board's present system.

(Source: Amended at 24 Ill. Reg. 14214, effective September 11, 2000.)

Section 100.30 FORWARDING OF DOCUMENTS (Repealed)

(Source: Repealed at 16 Ill. Reg. 6982, effective April 21, 1992.)

Section 100.40 VACANCIES IN OFFICE - CUSTODY OF RECORDS

Reference: This Section interprets or applies Sections 9-2, 9-5, 9-7, 9-7.5, 9-10 and 9-15 of the Election Code.

(a) Death

Upon the death of the treasurer of a committee, the candidate or, if such candidate is unable or unwilling to act, the remaining officers of the committee shall appoint a new treasurer and so amend the Statement of Organization (Form D-1) within 10 days after the date of death of the treasurer. In the event there is no candidate or remaining officers of the committee, the person or persons who succeed to the interests of the committee in its funds shall be responsible for filing all appropriate reports until such time as new officers are chosen or the committee terminates.

(b) Removal from office

In the case of a single candidate related committee whose officers were originally named by the candidate, the candidate shall have the right to remove any and all officers of his committee, provided such removal be done in writing and that the candidate comply with all requirements of the Act in the absence of officers for his candidate related committee. If a candidate removes from office any or all officers of his committee, all records related to the committee shall be maintained by the candidate. If former officers request, he shall allow them access to records and provide reasonable opportunity to make copies.

(c) Resignation

If the treasurer and all other officers resign and no new officers are appointed, the former treasurer and officers or, in the case of candidate related committees, the candidate shall be responsible for terminating the committee. When an individual vacates the position of treasurer, he shall verify the accuracy of his or her records to the succeeding treasurer. The succeeding treasurer shall not be held responsible for the veracity or accuracy of the records of the predecessors.

(d) Inability to Sign

All reports shall be verified, dated, and signed by either the treasurer of the political committee making the statement or the candidate on whose behalf the statement is made. However, should it be impossible for the political committee to obtain the signature of the treasurer or candidate prior to the filing deadline, then another may sign for the treasurer, provided that the treasurer submits a letter within 30 days of the filing indicating that such substituted signature is authorized and the treasurer accepts responsibility as if he had signed. The substituted signature shall read, "treasurer's name, by name of person signing". If the treasurer failed to submit a letter within 30 days, then the

report filed shall be considered a non-filing.

- (e) All reports, original reports, and other campaign documents required to be kept by a political committee under Article 9 of the Election Code remain the property of the political committee. No chairman, treasurer, or candidate shall have any proprietary or possessory interest in such documents in derogation of the rights of the committee itself.
- (f) If any political committee changes any officers, all records, statements and reports in the possession of the outgoing officers shall be transferred within ten (10) days following such change to the person or persons newly responsible for the maintenance of those records and/or the filing of reports.
- (g) If any outgoing officer fails to turn over the records in his or her care to a successor, in accord with this Section, or if any officer attempts to withhold records from other officers of the committee, the committee chairman, the treasurer, or the candidate may file a complaint before the Board requesting a turnover order.
- (h) A committee which fails to preserve its records and accounts required by Section 9-7 of the Election Code, or by this Part, for the periods required by statute or rule may be required to reconstruct its records and accounts if doing so is necessary to the audit of its records. If a committee is required to reconstruct its records it must pay all of the costs and charges, including bank or accountants fees, for the reconstruction of the records.

(Source: Amended at 24 Ill. Reg. 14214, effective September 11, 2000.)

Section 100.50 MULTIPLE FILINGS BY STATE AND LOCAL COMMITTEES

- (a) Reference: This Section interprets or applies Sections 9-3 and 9-10 of the Election Code.
- (b) A political committee that acts as both a State political committee and local political committee shall file each original Statement of Organization, Form D-1, as required by Sections 9-3 and 9-4 of the Election Code, and any other appropriate reports with the State Board of Elections, and shall file a copy of each and any other appropriate reports with the county clerk, except that political committees that file their reports electronically need not file copies of their D-2 reports, as required by Sections 9-11, 9-12, 9-13 and 9-14 of the Election Code, with the county clerk if the county clerk is participating in the electronic filing waiver program. A county clerk is eligible to participate in this program if he or she has a system that can access electronically and duplicate the reports that are on file with the State Board of Elections. Political committees, however, must continue to file copies of their D-1 Statement of Organization forms and any written correspondence with the county clerk.
- (c) When determining their filing obligations, it is the responsibility of political committees to verify whether the county clerk is participating in the electronic filing waiver program.
- (d) Any State committee that elects to support or oppose any local candidate or a question of public policy and exceeds an aggregate amount of \$3000 for local candidates or a question of public policy shall file an amended Statement of Organization, Form D-1, indicating that it is now a State and local committee and shall comply with all local filing requirements. In the event the State and local committee ceases to support local candidates, it shall file an amended D-1 indicating that it is now a State political committee and shall submit a letter informing the county clerk that it will no longer be active in that county.
- (e) Any local committee that elects to support or oppose any State candidate or a question of public policy and exceeds an aggregate amount of \$3000 for State candidates or \$3000 for a question of public policy shall file an amended Statement of Organization, Form D-1, indicating that it is now a State and local committee and shall comply with all State filing requirements. In the event the State and local committee ceases to support State candidates, it shall file an amended D-1 indicating that it is now a local political committee and shall submit a letter to the State Board of

Elections informing the Board that it will no longer be active statewide.

(Source: Amended at 28 Ill. Reg. 18785, effective November 7, 2005)

Section 100.60 FILING OPTION FOR A FEDERAL POLITICAL COMMITTEE

- (a) Reference: This section interprets or applies Section 9-15 of the Election Code.
- (b) Any "person" or "whoever" as defined by Section 9-1.6 of the Election Code, qualifying as a political committee under Article 9 of the Election Code, and filing Federal Election Commission reports may choose to comply with the provisions of Article 9 of the Election Code by so indicating on a Statement of Organization (Form D-1) filed with the State Board of Elections, county clerk, or both, as the case may be.
- (c) A political committee may choose to file reports pursuant to this Section, either by amendment or for the first time, by stating on Part 5 of the Statement of Organization (Form D-1) the following: "Campaign financing reports will be filed pursuant to Section 100.60, Campaign Financing Regulations, State Board of Elections".
- (d) Pursuant to the state filing waiver program (2 USC 439), a federal political committee also qualifying as a State political committee under Article 9 of the Election Code shall not file a copy of all Federal Election Commission reports with the State Board of Elections.
- (e) A federal political committee also qualifying as a local political committee under Article 9 of the Election Code shall simultaneously file a copy of all Federal Election Commission reports with the local county clerk.
- (f) This Section shall not authorize any person to receive or expend in Illinois an anonymous contribution on behalf of or in opposition to a candidate covered by Article 9 or in support of or in opposition to a question of public policy.

(Source: Amended at 29 Ill. Reg. 18785, effective November 7, 2005)

Section 100.70 REPORTS OF CONTRIBUTIONS AND EXPENDITURES

- (a) Reference: This Section interprets or applies Sections 9-10, 9-13, and 9-14 of the Election Code.
- (b) For purposes of determining the amount of contributions in excess of \$500 under Section 9-10(b-5) of the Election Code, all contributions received between the last date of the period covered by the last report filed prior to the election and the election from a single person, as defined in Section 9-1.6, shall be aggregated and treated as one.
- (c) An expenditure to a payee who is in whole or in part only a conduit for payment to another, such as a political consultant or a credit card issuer, must include by way of detail or separate entry the amount of funds passing to each vendor, business entity or person to receive funds from the payment, together with the reason for each disbursement and the beneficiary of the disbursement. Nothing in this Section shall be construed to impose a reporting obligation on any person not otherwise required to report under Article 9 of the Election Code or to require the itemization of expenditures not otherwise required to be itemized under Article 9 of the Election Code.
- (d) Pre-Election and A-1 Reports
 - 1) Every active political committee must file a pre-election report and A-1 reports, as required by Sections 9-10(b) and 9-10(b) (5) of the Election Code, in conjunction with every next election unless:
 - A) the political committee is not, by the terms of its D-1 Statement of Organization, organized to support or oppose a candidate or public question on the ballot at the next election; and
 - B) the political committee does not make expenditures in excess of \$500, including in-kind contributions, on behalf of or in opposition to any candidate or public question on the ballot at an election.

- 2) An active political committee that meets the requirements of subsections (d)(1)(A) and (B) shall be deemed a nonparticipating political committee and may file, in lieu of a pre-election report, a Statement of Non-Participation for the next election (see Section 9-10 of the Election Code).
 - (e) A committee that, having filed a Statement of Non-Participation, makes a subsequent contribution to a candidate or on behalf of a question of public policy that will appear on the ballot at the next election shall file a pre-election report within five days after making the contribution, or if the contribution is made during the five days immediately prior to the election, within 24 hours after making the contribution. In addition to filing a pre-election report, the committee shall timely file a Schedule A-1 for each contribution exceeding \$500, beginning with the date the contribution that triggered the obligation to file a pre-election report was made.
- (Source: Amended at 29 Ill. Reg. 18785, effective November 7, 2005)

Section 100.80 REPORT FORMS

- (a) Reference: This Section interprets or applies Sections 9-13, 9-14, and 9-16 of the Election Code.
 - (b) All reports submitted by political committees pursuant to the Act shall either be typed or printed legibly in black ink.
 - (c) Computer sheets filed in lieu of forms or schedules shall not exceed 8½" x 14". They shall be rejected if not camera ready.
- (Source: Amended at 24 Ill. Reg. 14214, effective September 11, 2000)

Section 100.90 PROVISION CIRCUMVENTION

- (a) Reference: This Section interprets or applies Section 9-26 of the Election Code.
- (b) The State Board of Elections will view any attempt to circumvent the clear intentions of the Act by means of subterfuge as violations of the Act.
- (c) Examples of such circumvention would be:
 - (1) A person or whoever organizes ten separate committees and then directs the treasurers of those committees not to accept or expend more than \$3,000;
 - (2) A candidate sets up multiple committees for the primary purpose of avoiding the itemization requirements of the Act.
 - (3) A person or whoever organizes a Committee to Elect Joe Doe for State Senator. He then terminates the committee and organizes a new committee called the All Illinois Committee to Elect Joe Doe for State Senator and has as his primary purpose the intent to raise campaign funds in this manner to avoid disclosure of contributors.

(Source: Amended at 24 Ill. Reg. 14214, effective September 11, 2000)

Section 100.100 PROOF OF IDENTIFICATION: APPLICATION OF INSPECTION AND COPYING (Repealed)

(Source: Amended at 24 Ill. Reg. 14214, effective September 11, 2000)

Section 100.110 LOANS BY ONE POLITICAL COMMITTEE TO ANOTHER

- (a) If a political committee lends or donates funds to a second political committee while the lending or donating committees owes the State Board of Elections a civil penalty assessed under the provisions of Section 5/9-10, 9-23 or 9-26 of the Election Code (10 ILCS 5/9-10, 5/9-23, 5/9-26), the officers of the lending committee shall be jointly

and severally personally liable to the extent allowed by law for payment of the civil penalty to the extent of the funds loaned or given.

- (b) If a political committee goes out of existence while it owes the State Board of Elections a civil penalty assessed under Section 9-10, 9-23 or 9-26 of the Election Code (10 ILCS 5/9-10, 5/9-23, 5/9-26), any political committee formed within 24 months from the date of final order imposing a civil penalty assessment on the first committee and composed of one or more of the same officers, or for the same purpose or for the support of the candidacy of the same person, irrespective of office, as the first committee, shall be deemed a successor committee and shall be responsible for payment of the civil penalty of the first committee.
- (c) A political committee which seeks to go out of existence while it is owed money by another political committee must first forgive the debt of the debtor political committee and must amend its reports to show the forgiven debt as a contribution to the debtor committee.
- (d) If a political committee seeks to go out of existence after a civil penalty has been imposed upon it pursuant to the Election Code and the rules promulgated thereunder, or if a civil penalty has been assessed by Board staff and such a proceeding is begun or about to begin, the political committee must first pay such civil penalty, or if it lacks sufficient funds to pay such civil penalty in full, pay over to the State Board of Elections such sums as it has in its treasury in satisfaction of the civil penalty. Only upon such payment of the civil penalty, either in full or in part as the case may be, shall the committee be permitted to exit the reporting system established by Article 9 of the Illinois Election Code [10 ILCS 5/Art. 9].

(Source: Amended at 24 Ill. Reg. 14214, effective September 11, 2000)

Section 100.120 RECEIPT OF CAMPAIGN CONTRIBUTIONS

- (a) Every person or political committee which makes any expenditure in excess of \$50 on behalf of a candidate or political committee, or contributes goods or services in excess of \$50 directly to a committee or indirectly to another on behalf of a committee, shall certify to the treasurer of the political committee within five business days after making the contribution. The certificate shall include the name and address of the person or political committee making the expenditure; the name and address of the entity to whom the expenditure was made; the amount of ascertainable market value of the expenditure; a description of the goods or services; and the date the expenditure was made. The ascertainable market value of goods and services assigned by the donor in the certificate, or if there is no certificate, by the recipient committee, shall be prima facie correct unless rebutted by clear and convincing evidence.
- (b) An entity defined by Section 9-1.6 of the Election Code or a political committee as defined by Sections 9-1.7, 9-1.8 or 9-1.9 of the Election Code shall acknowledge, to the donor, receipt of any such notice it receives conforming to the requirements of subsection (a) of this Section. No committee shall retain an in-kind contribution it has knowingly received unless it also receives the certificate required by subsection (a) of this Section unless return of the contribution is impossible. If the donor of the expenditure does not comply with subsection (a) of this Section and if the in-kind contribution cannot be returned, the beneficiary political committee shall nonetheless have the responsibility to report such in-kind contributions or expenditures from the donor if it actually knows or reasonably should have known from the facts available to it that an in-kind contribution had been made in its behalf.
- (c) A cash contribution to a political committee is deemed to have been received on the date the contribution was actually received by the candidate, Chairman or Treasurer of the committee or the public official. A contribution of

goods actually received by the committee is deemed to be made on the date the goods are transferred to the possession of the recipient. A contribution of services is deemed to be made on the date the services are actually performed. An in-kind contribution of goods or services, possession of which is not actually obtained by the recipient committee, shall be deemed to be received 2 days after the date the certificate required by subsection (a) of this Section is received, or if no certificate has been received, 2 days after the date information comes into the possession of the candidate, Chairman or Treasurer of the recipient committee or the public official from which the person receiving the information knows or should reasonably know of the in-kind contributions.

(Source: Amended at 23 Ill. Reg. 6796, effective May 24, 1999)

Section 100.130 REPORTING BY CERTAIN NOT-FOR-PROFIT ORGANIZATIONS

- (a) A not-for-profit organization operating in Illinois is required to submit financial reports to the State Board of Elections if it:
 - (1) is not a labor union;
 - (2) is registered under the Lobbyist Registration Act, or engages any person, whether paid or not, for lobbying purposes who is registered under the Lobbyist Registration Act;
 - (3) has not established a political committee; and
 - (4) accepts or spends more than \$5000 per year in the aggregate on both:
 - (A) supporting or opposing candidates for public office or questions of public policy that are to appear on a ballot at an election; and
 - (B) influencing legislative, executive, or administrative action as defined in the Lobbyist Registration Act.
- (b) Reports containing the information required by statute shall be submitted on forms designed and supplied by the State Board of Elections or upon computer-generated forms conforming to those designed by the State Board of Elections.

(Source: Added at 23 Ill. Reg. 6796, effective May 24, 1999)

Section 100.140 PROHIBITED CONTRIBUTIONS – STATE PROPERTY

- (a) Upon receipt of a notice of violation of Section 5-35 of the State Officials and Employees Ethics Act [5 ILCS 430/5-35], the State Board of Elections may assess a penalty not to exceed 100% of the value of the contribution giving rise to the violation. In determining whether to assess a penalty and the amount of a penalty, the Board shall consider any mitigating or aggravating factors contained in the notice, including but not limited to the number of past violations of the Act, the amount of the contribution and whether, in the Board's view, the violation was unintentional or willful.
- (b) Persons against whom a penalty has been assessed by the Board may appeal the penalty. The provisions of 26 Ill. Adm. Code 125.425 governing the appeal procedures for violations of Article 9 of the Election Code [10 ILCS 5/9] shall apply to appeals of penalties assessed under this Section.

(Source: Amended at 29 Ill. Reg. 18785, effective November 7, 2005)

Section 100.150 ELECTRONIC FILING OF REPORTS

- (a) The State Board of Elections will make software available to committees required to report electronically under 10 ILCS 5/9-28.

- (b) Once a committee exceeds the threshold that requires it to report electronically, it must continue thereafter to report electronically until it dissolves, whether or not its accumulation, receipts or expenditures fall beneath the levels set by statute for mandatory electronic filing.

(Source: Added at 23 Ill. Reg. 6796, effective May 24, 1999)

Section 100.160 GOOD FAITH

- (a) For purposes of this Section, “contributor” includes the terms “lender” and “endorser”. A committee acts in good faith under 10 ILCS 5/9-11, 9-12, 9-13, and 9-14 if:
 - (1) its written solicitation for funds includes a clear written request for the name of the contributor’s employer and the occupation of the contributor;
 - (2) in the event it receives a contribution lacking the name of the contributor’s employer and occupation of the contributor in circumstances where such information is required, it makes at least one effort to obtain the missing information; and
 - (3) in the event its request for information is unanswered, the committee includes in its report the best and most current information it may have from whatever source, including its own records and earlier reports, about the name of the contributor’s employer and the occupation of the contributor.
- (b) The request shall appear in a clear and conspicuous manner on any response material contained in the solicitation.
- (c) An effort to obtain missing information must either be in writing or oral documented by a writing, and must be made on or before the close of the reporting period in which the contribution or loan was received. The request must clearly ask for the missing information and must contain no other language except thanks to the contributor or lender for the contribution or loan. If the request is in writing it must be accompanied by a pre-addressed return post card or envelope.
- (d) If the name of the employer of a contributor that is required to be reported under Article 9 of the Election Code is unknown at the time the contribution must be reported, a good faith effort having been made to secure such information, the contribution may be reported without the information. However, if the omitted information subsequently becomes known to the committee, the report that omits the information must be amended to add the information.
- (e) For the purpose of this Section, “employer” includes all natural and non-natural persons, including but not limited to corporations, partnerships and unincorporated associations.

(Source: Added at 23 Ill. Reg. 6796, effective May 24, 1999)

Section 100.170 SPONSORING ENTITY

- (a) A sponsoring entity is a person that contributes not less than 33% of the total funding of any political committee at any time during a semi-annual reporting period following the 30th day after the committee has filed its statement of organization.
- (b) Person includes natural persons, corporations, partnerships, political committees, and unincorporated associations.
- (c) Total funding means the sum of the funds available at the beginning of the reporting period and the total receipts for the semi-annual reporting period.
- (d) Total receipts means any contributions as defined in Section 9-1.4 of the Election Code that are received by the committee.

- (e) Each political committee shall include in its name the name of any sponsoring entity.
- (f) If, at any time during a semi-annual reporting period, a committee that has not previously identified a sponsoring entity receives 33% of its total funding during that semi-annual reporting period from a single person, the committee must amend its Statement of Organization to identify the sponsoring entity.
- (g) A political committee, the name of which includes the name of the candidate supported by the committee, the name of an established political party as that term is used in Article 7 of Election Code, or the name of a new political party as that term is used in Article 10 of the Election Code satisfies the requirements of this Section without the need for further statement of sponsoring entity in the name of the committee.
- (h) A political committee is not a sponsoring entity if it is organized by an established political party as that term is used in Section 10-2 of the Election Code, a partisan caucus of either house of the General Assembly, the Speaker or Minority Leader of the House of Representatives or the President or Minority Leader of the Senate in their official capacities (see Section 9-3 of the Election Code).
- (i) The name of the sponsoring entity shall be the full name of the person, and not an acronym.
- (j) A committee is required to identify its sponsoring entity so long as it receives not less than 33% of its total funding from a single person. A committee may amend its Statement of Organization to delete the name of its sponsoring entity from its name if, for two consecutive semi-annual reporting periods, it fails to receive not less than 33% of its total funding from a single person.
- (k) If, at any time during a semi-annual reporting period, a committee that has identified a sponsoring entity receives not less than 33% of its total funding from a different single person than the person identified as its sponsoring entity, it shall amend its Statement of Organization to include in its name the name of the new sponsoring entity.
- (l) If a committee receives support from two or more persons, each one of which would independently of the other meet the definition of a sponsoring entity, the name of the committee shall include all such persons.

(Source: Amended at 29 Ill. Reg. 18785, effective November 7, 2005)

Title 26: Elections
CHAPTER 1: STATE BOARD OF ELECTIONS

Part 125
PRACTICE AND PROCEDURE

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- 125.810 Ex Parte Communications
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AUTHORITY: Implementing and authorized by Sections 1A-8(9), 9-15(3), 9-21 and 9-23 of the Election Code [10 ILCS 5/1A 8(9), 5/9-15(3), 5/9-21, and 5/9-23].

SOURCE: Adopted at 5 Ill. Reg. 12115, effective October 26, 1981; amended at 7 Ill. Reg. 230, effective December 16, 1982; amended at 7 Ill. Reg. 239, effective December 16, 1982; amended at 7 Ill. Reg. 15803 and 15810, effective November 9, 1983; codified at 8 Ill. Reg. 3278; amended at 9 Ill. Reg. 4050, effective March 14, 1985; amended at 14 Ill. Reg. 10832, effective June 22, 1990; amended at 16 Ill. Reg. 6986, effective April 21, 1992; amended at 19 Ill. Reg. 6546, effective May 1, 1995; emergency amendment at 23 Ill. Reg. 1122, effective January 7, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 6807, effective May 24, 1999; amended at 24 Ill. Reg. 14203, effective September 11, 2000; emergency amendment at 28 Ill. Reg. 1408, effective January 5, 2004, for a maximum of 150 days; emergency expired June 2, 2004; amended at 29 Ill. Reg. 18796, effective November 7, 2005.

SUBPART A: DEFINITIONS AND GENERAL PROVISIONS

Section 125.5. APPLICABILITY

This Subpart A shall apply to the practices and procedures of the State Board of Elections, and all proceedings conducted by the Board under Subpart A. This Part is not intended to apply to State Electoral Board hearings, or to proceedings under Subpart B of this Part (closed preliminary hearings) where any provisions of Subpart B make a more specific or contradictory provision to anything contained in Subpart A.

(Source: Amended at 14 Ill. Reg. 10832, effective June 22, 1990)

Section 125.10 DEFINITIONS

As used in Subparts A-H of these Rules, the following terms shall have the meanings specified:

- (a) "Board" means the State Board of Elections;
- (b) "General Counsel" means the person designated and appointed as General Counsel of the Board, or any individual acting in his stead in the event of
 - (1) a vacancy in the position of General Counsel, or
 - (2) the absence, incapacity, or unavailability of the General Counsel.
- (c) "file," "filed," or "filing" means with respect to reports, statements and documents required to be filed with the State Board of Elections or the appropriate election authority:
 - (1) delivery to the principal office of the State Board of Elections, Springfield, Illinois, or the appropriate election authority by the close of business of the prescribed filing date, or;
 - (2) delivery to the permanent branch office of the State Board of Elections, Chicago, Illinois, by the close of business of the prescribed filing date, or;
 - (3) deposit with the United States Postal Service, postage prepaid, in sufficient time so that the mailed documents will arrive by the close of business of the prescribed filing date.
- (d) "Act" means the Campaign Financing Act (The Election Code, Article 9) and all amendments thereto;
- (e) "Party" means individual(s), trust(s), partnership(s), committee(s), corporation(s), association(s), public or private organization(s) or group(s) of persons of any character, or any governmental agency entitled or required to participate in any hearing or proceeding;
- (f) "Complainant" means a party initiating a proceeding under the Act by the filing of a complaint; and
- (g) "Respondent" means a party against whom a complaint is directed.

Section 125.15 BOARD OFFICES AND BUSINESS HOURS

- (a) The principal office of the State Board of Elections is located at Springfield, Illinois, and shall be open each day, except Saturdays, Sundays and State legal holidays, from 8:00 a.m. to 4:30 p.m.
- (b) The permanent branch office of the State Board of Elections located at Chicago, Illinois, shall be open each day except Saturdays, Sundays and State legal holidays, from 8:30 a.m. to 5:00 p.m.
- (c) When the last day for the filing of nominating petitions and/or objections to nominating petitions as required by the Election Code is a Saturday, Sunday, or holiday, then the Board offices shall remain open from 8:30 a.m. to 5:00 p.m. on that day.
- (d) However, on the day of any election, or at any other time, the offices of the Board may be kept open such additional time as the Board shall deem necessary to carry out its duties.

Section 125.20 DOCUMENTS PERTAINING TO HEARINGS

- (a) All documents, including but not limited to complaints, notices, and motions, permitted or not required to be filed with the Board in connection with any proceeding before the Board shall be filed with the office of the General Counsel.
- (b) All documents permitted or required to be filed with the office of the General Counsel may be so filed either:
 - (1) by personal delivery to the Board's principal office located in Springfield, Illinois, or the Board's permanent branch office located in Chicago, Illinois, or
 - (2) by mail, postage prepaid with the United States Postal Service, and addressed to the General Counsel at the Board's principal office or permanent branch office in Chicago.
- (c) All documents filed by mail pursuant to Section 125.20 shall be deemed filed as of the date and time when such documents are actually received by the office of the General Counsel. If said office customarily and regularly utilizes a time-date stamp for the recording of the receipt of such documents, the time and date stamp impression affixed to any such filed document shall be prima facie evidence that such document was filed on the date and at the time shown by such stamp impression.

Section 125.30 FORM OF DOCUMENTS

- (a) All documents filed with the office of the General Counsel shall be stamped or printed with the docket number and the title of the proceeding in connection with which they are filed. Upon the filing of a complaint, the office of the General Counsel shall assign a docket number to the complaint and proceeding, and all documents thereafter filed pertaining to that particular complaint or proceeding shall include the docket number first assigned. Except as otherwise provided, eight (8) copies of all documents shall be filed with the office of the General Counsel. When the Board or the General Counsel waives the necessity of filing eight (8) copies of documents, such waiver shall be binding. Documents shall be printed or typewritten or reproduced from a printed or typewritten copy on unglazed white paper.
- (b) Reproduction may be made by carbon or copying machines or any other process that produces legible black on white copy. At least one copy of each document shall be signed by the party filing or by his authorized representative or attorney. The first document filed by a party in any proceeding shall bear the address and telephone number of the party or of his attorney or representative and the designation of such address shall be deemed to be consent by the filing party to have a copy of all documents filed or to be filed thereafter served upon the party at such address.

Section 125.40 SERVICE OF DOCUMENTS

Except as provided in Section 125.240, whenever these Rules require any document to be served upon a party or other person, service shall be complete when the document is served by abode service as provided in the Civil Practice Law (735 ILCS 5/2-203(a)), in person upon the party or his attorney or designated representative, or deposited for mailing with the United States Postal Service, postage prepaid, registered or certified, addressed to the party at his last known address.

(Source: Amended at 24 Ill. Reg. 14203, effective September 11, 2000)

Section 125.50 COMPUTATION OF TIME

Computation of any period of time expressed in days and prescribed by these Rules shall begin with the first day following the day on which the act or event initiating such period of time occurs, and shall run until the end of the last day, or the next following business day if the last day is a Saturday, Sunday or State legal holiday. Computations of any period of time expressed in hours and prescribed by these Rules shall begin sixty (60) minutes after the act or event initiating such period of time occurs, and shall run until the end of the last sixty-minute period; provided, however, that all sixty-minute periods falling within a Saturday, Sunday or State legal holiday shall be excluded in computing the period of time.

Section 125.55 TIME OF NOTICES

Whenever this Part requires a notice to be given within a period of time, such requirements shall be construed to mean that notice shall be received by the party entitled to such notice; provided however, that evidence that notice was dispatched by means reasonably calculated to be received by the prescribed date shall be prima facie proof that notice was timely received by the party entitled to such notice.

Section 125.60 APPEARANCES

- (a) Any person entitled to participate in Board proceedings may appear as follows:
 - (1) A natural person may appear in his own behalf or by an attorney at law licensed and registered to practice in the State of Illinois, or both;
 - (2) A business, unincorporated association, nonprofit, or government organization may appear by any bona fide officer, employee, or representative, or may be represented by an attorney licensed and registered to practice in the State of Illinois, or both.
- (b) Attorneys not licensed and registered to practice in the State of Illinois may appear on motion.
- (c) An attorney appearing in a representative capacity shall file a written notice of appearance with the Board, together with proof of service on all parties or their respective attorneys.

Section 125.70 NON-LEGAL ASSISTANCE

Any party involved in any proceeding conducted pursuant to this Part shall have the right to the presence and participation of additional persons, in addition to, or instead of an attorney, in order to provide technical assistance and consultation. The Hearing Examiner may at his discretion restrict the number of such additional persons who may attend and participate in the proceedings.

Section 125.75 PARTIES

- (a) The person initiating a proceeding shall be designated the complainant. Any adverse party shall be designated the respondent.
- (b) Misnomer of a party is not a ground for dismissal, but the name of any party may be corrected at any time.
- (c) If a complete determination of a controversy cannot be had without the presence of other parties, the Board may direct them to be brought in. If a person not a party has an interest which the order may affect, the Board on its own initiative or on application may direct him to be made a party. Service of process and subsequent pleadings shall be had as directed by the Board.

Section 125.80 ANSWER

Any respondent may file a written answer to a complaint prior to or at the time of any proceeding or hearing, but shall not be required to file an answer. The failure to file an answer shall not be deemed an admission of any allegation in the complaint nor a consent to the requested relief. An answer may include affirmative defenses and jurisdictional objections. An answer shall be filed with the Hearing Examiner, and at least one copy of the same shall be signed by the respondent or his attorney and shall contain thereon evidence of service as herein provided. At least one copy of such answer shall be served upon all other parties to the proceeding, in accordance with Section 125.40 and the General Counsel.

Section 125.90 QUALIFICATIONS OF HEARING EXAMINER

Whenever possible a person appointed Hearing Examiner for an adjudicatory proceeding conducted pursuant to this Part shall be a licensed attorney. Unless all parties to the proceeding so stipulate, the Examiner who conducted the closed preliminary hearing shall not conduct the public hearing. Closed preliminary hearings are deemed non-adjudicatory by this Part and by Section 125.245.

(Source: Amended at 14 Ill. Reg. 10832, effective June 22, 1990)

Section 125.95 AUTHORITY OF HEARING EXAMINER

The Hearing Examiner has the authority to conduct and preside over an adjudicatory hearing, to take all necessary action to avoid delay, to maintain order, to ensure compliance with all notice requirements, and to ensure the development of a clear and complete record. He shall have all powers necessary to conduct a fair and impartial hearing including, but not limited to, the power to:

- (a) Administer oaths and affirmations;
- (b) Regulate the course of hearings, set the time and place for continued hearings, fix times for filing of documents, provide for the taking of testimony by depositions if necessary, and in general conduct the proceedings, according to recognized principles of administrative law and the provisions of this Part;
- (c) Examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitious or cumulative testimony, and set reasonable limits on the amount of time each witness may testify;
- (d) Rule upon offers of proof and receive relevant evidence;
- (e) Direct parties to appear and confer for the settlement or simplification of issues, and otherwise conduct pre-hearing conferences;
- (f) Dispose of procedural requests or similar matters;
- (g) Issue orders relating to pre-hearing discovery to the extent authorized by and permitted under this Part;

- (h) In connection with a public hearing on a complaint, render proposed Findings of Fact and Conclusions of Law and make Recommendations for a final order of the Board;
- (i) Enter any order that further carries out the purpose of this Part;
- (j) Issue subpoenas and rule upon objections to subpoenas and discovery orders;
- (k) Consider and rule upon all motions presented in the course of the proceeding.

(Source: Amended at 14 Ill. Reg. 10832, effective June 22, 1990)

Section 125.100 DISQUALIFICATION OF HEARING EXAMINER

Any party to a hearing may file a timely written request for disqualification of a Hearing Examiner, setting forth therein the nature of the personal bias, prejudice, or other disqualification of a presiding Hearing Examiner, and such Hearing Examiner shall be thereupon disqualified. When a Hearing Examiner is disqualified, or it becomes impractical for him to continue, another presiding Hearing Examiner shall be appointed in the manner provided for initial appointment, unless it is further shown that substantial bias or prejudice will result from the appointment. A Hearing Examiner may at any time voluntarily disqualify himself. A request for disqualification shall be considered timely if made within three (3) days after receipt of the notice of the appointment of the Hearing Examiner by the party requesting the disqualification, and at least twenty-four (24) hours prior to the commencement of the hearing or pre-hearing conference by the Hearing Examiner; provided, however, that in the case of a complaint filed within sixty (60) days preceding the date of an election in reference to which the complaint is filed, such request shall be considered timely only if verbal notice of the request is given to the General Counsel within eight (8) hours after the requesting party has received telegraphic or telephonic notice of the appointment of the Hearing Examiner.

(Source: Amended at 24 Ill. Reg. 14203, effective September 11, 2000)

Section 125.110 MOTIONS

- (a) Unless made orally on the record during a hearing, or unless the Hearing Examiner directs otherwise, motions shall be in writing and accompanied by any affidavits or other matters relied upon. The original copy of all motions shall be served upon the Hearing Examiner and copies shall be served upon all other parties to the proceeding and the General Counsel.
- (b) A party may file a response in support of or in opposition to a motion within such time as the Hearing Examiner directs. If no response is filed, the parties shall not be deemed to have waived objections to the motion. Service of a response shall be the same as provided in Section 125.110(a).
- (c) No oral argument will be heard on a motion unless the Hearing Examiner directs otherwise.
- (d) The Hearing Examiner shall rule upon all motions, except that he shall have no authority to make a recommendation to the Board to dismiss or decide a hearing on the merits, without granting all parties to the proceeding a right to be heard and to establish a record.
- (e) Unless otherwise ordered by the Board, the filing of a motion shall not stay the proceeding or extend the time for the performance of any act.
- (f) A party may participate in the proceedings without waiving any jurisdictional objections.

Section 125.115 CONSOLIDATION AND SEVERANCE OF CLAIMS: ADDITIONAL PARTIES

In the interest of convenience, expeditious and complete determination of claims, the Hearing Examiner or the Board may

consolidate or sever adjudicative claims involving any number of parties, and may order additional parties to be brought in pursuant to the provisions of Section 125.75(c).

Section 125.120 AMENDMENTS

Complaints may be amended under any of the following circumstances:

- (a) to correct any technical defects;
- (b) to conform to the evidence presented at the hearing;
- (c) to conform to new matters that arise at the hearing if it appears from the original and amended pleadings that the cause of action asserted in the amended pleading grew out of the same transaction or occurrence, or arose from or related to the same disclosure period set forth in the original pleading. For the purpose of preserving the cause of action under those conditions, an amendment adding a person as a respondent relates back to the date of the filing of the original pleading so amended.

Section 125.130 INTERVENTION

- (a) Upon timely written application, the Hearing Examiner may permit any person to intervene in a proceeding, subject to the necessity for conducting an orderly and expeditious hearing, when either of the following conditions is met:
 - (1) when the applicant is so situated that he may be adversely affected by a final order of the Board; or
 - (2) when an applicant's claim or defense and the adjudicative proceeding have a question of law or fact in common.
- (b) A petition for intervention shall be filed with the Hearing Examiner and a copy shall be served on each party and upon the General Counsel prior to the date set for hearing of the matters set forth in the complaint. The Hearing Examiner may thereafter permit intervention only upon good cause shown for the delay. The Hearing Examiner may grant such continuances of the hearing as justice may require.
- (c) An intervener shall have all the rights of an original party, except that the Hearing Examiner may in his order allowing intervention provide that the applicant shall be bound by orders previously entered, that the applicant shall not raise issues which might more properly have been raised at an earlier stage of the proceeding, that the applicant shall not raise new issues or add new parties, or that in other respects the applicant shall not interfere with the control of the hearing, as justice and the avoidance of undue delay may require.

Section 125.135 PRE-HEARING CONFERENCES

- (a) Upon notice by the Hearing Examiner in any proceeding or upon request by any party, the Hearing Examiner may direct parties or their attorneys to appear at a specified time and place for a conference, either during or prior to any hearing, for the purposes hereinafter mentioned. The purposes for such conferences shall include:
 - (1) the formulation and simplification of issues;
 - (2) the necessity or desirability of amending the pleadings for the purpose of clarification, amplification or limitation;
 - (3) the possibility of stipulations concerning the admissibility of evidence;
 - (4) the limitations of the number of witnesses;
 - (5) the propriety of prior mutual exchange between or among the parties of prepared testimony and exhibits; and
 - (6) such other matters as may aid in the simplification of the evidence and disposition of the proceeding.

- (b) In exercising such discretion, the Hearing Examiner shall give due consideration to the time requirements of Section 9-21 of the Election Code.

Section 125.140 SETTLEMENT PURSUANT TO CONFERENCES

At any time upon suggestion of the Hearing Examiner or upon request of any party, an opportunity shall be afforded all parties to dispose of the case by written stipulation, agreed settlement or consent order, unless otherwise precluded by law. Any stipulation, agreed settlement, or consent order shall be submitted in writing to the Board and shall become effective only if approved by the Board.

Section 125.150 RECORD OF CONFERENCES

A record of any conference held pursuant to Section 125.140 hereof shall be kept only if all parties to the proceeding shall request such a record. If such a request is made, the record of the conference shall be deemed a part of the record of the hearing.

Section 125.160 CONTINUANCES

- (a) A hearing may be continued for good cause by the Hearing Examiner upon his own motion or upon motion of a party to the hearing after due consideration of any time limitations required by law or by this Part. Notice of any postponement or continuance shall be given to all parties within a reasonable time in advance of the previously scheduled hearing date. All parties involved in a hearing shall attempt to avoid undue delay caused by repetitive continuances so that the hearing may be resolved expeditiously.
- (b) For good cause, and only if pursuant to a written stipulation between all parties, a hearing may be continued for a period of time in excess of the time limits set forth in Section 9-21 of the Act; provided, however;
 - (1) No continuance, or series of continuances, may total more than 45 days;
 - (2) If the complaint was filed within 60 days preceding the date of an election, in no event shall the continuance extend beyond two days prior to the date of the election.
- (c) Any request for a continuance and the reasons therefore, and any written stipulation shall be made part of the hearing record.

Section 125.170 ORDER OF PROCEEDINGS

The following shall be the order of all proceedings held, pursuant to the Subpart C of this Part subject to modification by the Hearing Examiner for good cause:

- (a) Presentation, argument and disposition of motions preliminary to a hearing on the merits of the matters raised in the complaint of answer;
- (b) presentation of opening statements;
- (c) complainant's case;
- (d) respondent's case;
- (e) complainant's case in rebuttal;
- (f) statements from interested citizens, if authorized by the Hearing Examiner;
- (g) complainant's closing statement, which may include legal argument;
- (h) respondent's closing statement, which may include legal argument; and
- (i) ruling on any reserved motions.

(Source: Amended at 14 Ill. Reg. 10832, effective June 22, 1990)

Section 125.175 FAILURE OF PARTY TO APPEAR

Failure of a party to appear on the date set for hearing or failure to proceed as ordered by the Hearing Examiner shall not deter the hearing from proceeding unless the Hearing Examiner shall, for good cause, order a continuance.

Section 125.180 EVIDENCE

- (a) Except with respect to matters of privilege, the rules of evidence as applied in civil cases in courts of this State shall not be strictly applied to hearings under this Part. Admissibility of evidence shall be liberally interpreted in order to present all matters which are or may be relevant to the issues affecting the parties.
- (b) The Hearing Examiner shall exclude immaterial, irrelevant, and repetitious evidence.
- (c) When the admissibility of disputed evidence depends upon an arguable interpretation of substantive law, the Hearing Examiner shall admit such evidence.
- (d) A party may conduct examinations or cross-examinations without rigid adherence to formal rules of evidence, provided the examination or cross-examination can be shown to be necessary and pertinent to a full and fair disclosure of the subject matters of the hearing.

Section 125.185 OFFICIAL NOTICE

Notice may be taken of matters of which the Circuit Courts of this State may take judicial notice. In addition, notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

Section 125.190 EXAMINATION OF ADVERSE PARTY OF AGENT

Upon the hearing of an adjudicatory action any party thereto or any person for whose immediate benefit the action is prosecuted, or defended, or the officers, directors, or managing agents of any party to the action, may be called and examined as if under cross-examination at the instance of any adverse party. The party calling for the examination is not precluded thereby but may rebut the testimony thus given by counter-testimony and may impeach the witness by proof of prior inconsistent statements.

(Source: Amended at 14 Ill. Reg. 10832, effective June 22, 1990)

Section 125.192 PARTICIPATION BY BOARD MEMBERS AND STAFF

- (a) Any Board member or staff member of the Board may be designated by the Board to participate in hearings conducted under this Part, and pursuant thereto, may interrogate witnesses, raise points of law and have all rights of an interested party. Such Board member or staff member shall not have the authority to rule on objections, motions, or petitions, or to overrule the Hearing Examiner during the hearing, or otherwise to usurp the authority of the Hearing Examiner conferred under this Part.
- (b) Such Board or staff members shall not be subject to any rule or motion adopted during the hearing excluding witnesses but shall be permitted to participate in all hearings as a representative of the Board even if also a witness.

Section 125.195 HOSTILE WITNESSES

If the Hearing Examiner in an adjudicatory hearing determines that a witness is hostile or unwilling, the witness may be examined by the party calling him as if under cross-examination. The party calling a witness, upon a showing that he called the witness in good faith and is surprised by his testimony, may impeach the witness by proof of prior inconsistent statements.

(Source: Amended at 14 Ill. Reg. 10832, effective June 22, 1990.)

Section 125.197 ADMISSION OF BUSINESS RECORDS IN EVIDENCE

Any writing or record, whether in the form of any entry in a book or otherwise, made as a memorandum or record of any act, transaction, occurrence, or event, except as otherwise privileged, shall be admissible as evidence of the act, transaction, occurrence, or event, if made in the regular course of any business, and if it was regular course of the business to make such a memorandum or record at the time of such an act, transaction, occurrence, or event or within a reasonable time thereafter. All other circumstances of the making of the writing or record, including lack of personal knowledge by the entrant or maker, may be shown to affect its weight, but shall not affect its admissibility. The term "business", as used in this Rule, includes business, profession, occupation and calling of every kind, and shall specifically include campaigns for nomination or election or campaigns in support of or opposition to any referendum or question of public policy.

Section 125.199 COMPELLING APPEARANCE AT HEARING

The appearance at an adjudicatory hearing of a party or a person who is an officer, director, or employee of a party may be required by serving the party with a notice designating the person who is required to appear. If the party or person is a non-resident of the State, the Hearing Examiner shall provide by order such terms and conditions in connection with his appearance at the hearing as are just, including payment of his reasonable expenses. The notice also may require production at the hearing of documents or tangible things.

(Source: Amended at 14 Ill. Reg. 10832, effective June 22, 1990.)

SUBPART B: CLOSED PRELIMINARY HEARINGS

Section 125.210 APPLICABILITY

The rules in this Subpart shall apply to closed preliminary hearings pursuant to Section 9-21 of the Campaign Financing Act.

Section 125.220 COMMENCEMENT OF PROCEEDING

A proceeding to adjudicate an alleged violation of the Act shall be commenced by the filing of a complaint in accordance with Section 125.20.

Section 125.230 FORM OF COMPLAINT

All complaints shall conform to Section 125.30, and shall contain the following:

- (a) The complaint shall be directed to and state the name of the person, candidate, or the chairman or treasurer of a political committee against whom the complaint is directed;
- (b) The complaint shall state the provisions of the Act or Rules which are alleged to have been violated;
- (c) The complaint shall state the time, place and nature of the alleged offense; and
- (d) The complaint shall be verified, dated and signed by the complainant, in substantially the following manner:

VERIFICATION:

"I declare that this complaint (Including any accompanying schedules and statements) has been examined by me and to the best of my knowledge and belief is a true and correct complaint as required by Article 9 of the Election Code. I understand that the penalty for willfully filing a false complaint shall be a fine not to exceed \$500 or imprisonment in a penal institution other than the penitentiary not to exceed six months, or both fine and imprisonment."

(Date of filing)

(Signature of person filing the complaint)

Section 125.235 BOARD MEMBERS AS COMPLAINANTS

- (a) Nothing in this Part shall prohibit a member of the Board from filing a complaint in his or her individual capacity.
- (b) After filing the complaint, the complaining member shall decline to be present at or participate in any Board decision affecting said complaint or the proceedings pertaining to said complaint.
- (c) In all other respects, the provisions of this Part shall apply to situations where a member of the Board is a complainant.

Section 125.240 SERVICE OF COMPLAINT

- (a) If a complaint is filed within 60 days prior to the date of an election in reference to which the complaint is filed, the complainant shall serve a copy of the complaint upon all respondents prior to the time of filing, and the complaint filed with the office of the General Counsel shall have attached to it proof of service, consisting of any one of the following:
 - (1) a written acknowledgment signed by the person served;

- (2) in case of service by personal delivery, an affidavit of the person who made delivery; or
 - (3) abode service in accordance with the Civil Practice Law [735 ILCS 5/Art.II]
 - (b) In all other cases, service shall conform to Section 125.40
 - (c) When a complainant has attempted to serve a respondent who is no longer residing at his or her last known address, proof of service shall be complete when the complainant has filed an affidavit indicating that a diligent effort has been made to locate the respondent but that effort has been unsuccessful and the respondent's whereabouts are unknown.
- (Source: Amended at 29 Ill.Reg. 18796, effective November 7, 2005)

Section 125.245 APPOINTMENT OF EXAMINER - ORDER OF CLOSED PRELIMINARY HEARING

- (a) Complaints may be filed by Board members, Board staff, or private persons in accordance with Section 9-20 of the Act.
- (b) In accordance with the time constraints stated in Section 9-21 of the Election Code, the Executive Director shall appoint an Examiner, who shall be a licensed attorney or a Board employee of the classification Election Specialist III or higher, who possesses at least two years experience as an Election Specialist of any rating, and the Director of the Division of Campaign Disclosure shall enter an order directing a closed preliminary hearing be held on the complaint, designating the time and place of the hearing.
- (c) The Examiner may be the Director of the Campaign Disclosure Division or any person designated by the Executive Director.
- (d) A copy of such order shall be served on the complainant, if different from the Board or its staff, and upon the respondent. Such order shall have attached a copy of the complaint. The order shall contain a recitation that the respondent may be represented by counsel at the closed preliminary hearing.

(Source: Amended at 14 Ill. Reg. 10832, effective June 22, 1990.)

Section 125.250 TIME OF PRELIMINARY HEARING (Repealed)

(Source: Repealed at 14 Ill. Reg. 10832, effective June 22, 1990.)

Section 125.252 SCOPE OF PRELIMINARY HEARING - PROCEDURES - EVIDENCE

The closed preliminary hearing is not an adjudication, but shall be an inquiry to elicit evidence on the question whether the complaint was filed on justifiable grounds, and having some basis in fact and law.

- (a) The closed preliminary hearing shall be conducted by the Examiner.
- (b) Minutes of the closed preliminary hearing shall be kept by the Board staff and signed by the Examiner. A party may record the proceedings by employing his or her own court reporter, or otherwise recording the hearing. Minutes of the closed preliminary hearing shall be made available to any party upon request.
- (c) The closed preliminary hearing need not be strictly adversarial in nature;
 - (1) Any person offering evidence, written or oral shall affirm to the Examiner that his or her evidence is true to the best of his or her information and belief;
 - (2) Evidence may be submitted in narrative form;
 - (3) The Examiner shall not be bound to follow rules of evidence acceptable in an Illinois court of record, but may admit and rely upon for his or her recommendation such evidence or information of a type

commonly relied upon by reasonably prudent men in the conduct of their affairs as provided by Section 12 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1987, ch. 127, par. 1012);

- (4) The complainant bears the burden of introducing such evidence or information sufficient under subsection (c)(3), for the Board to conclude that the complaint has been filed on justifiable grounds;
 - (5) The complainant will ordinarily present evidence or information supporting its complaint first in order. The complainant will present his case first except when convenience to the Examiner or the respondent requires the respondent to proceed first. The consent, in such cases, of the complainant will be required. The respondent may then present any information or evidence; and
 - (6) The Examiner may ask the complainant or respondent any questions relevant to the charges of the complaint. Any question is relevant if it has the possibility of eliciting an answer which tends to make the ultimate fact of justifiable grounds more or less likely.
- (d) At the close of the hearing the Examiner shall summarize his or her conclusions concerning the evidence and information represented and draft a recommendation to the Board addressing the questions whether the complaint was filed on justifiable grounds. The Examiner shall also attach to the minutes any documents tendered to the Board during the hearing, and submit his recommendation and the minutes to the Board for their consideration. He shall send a copy to the General Counsel.
 - (e) The Examiner shall have no authority to rule on any questions of law raised by the complainant or respondent, but shall note in the minutes all such matters for the Board's disposition.
 - (f) At any time before the Examiner submits his recommendation and minutes, the complainant and respondent may settle the matters between them, subject to the approval of the Board. If the Board or a member of its staff is the complainant, the Examiner shall have the authority to enter into a stipulation for settlement pursuant to Section 125.254 of this Part, which stipulation shall be subject to Board approval.

(Source: Amended at 14 Ill. Reg. 10832, effective June 22, 1990.)

Section 125.253 RESPONSIBILITIES OF THE GENERAL COUNSEL

- (a) Upon receipt of a copy of the recommendation of the Examiner and the minutes, the General Counsel shall:
 - (1) Review the minutes for questions of law and evidence;
 - (2) Offer his remarks and recommendations on all matters of law noted in the minutes;
 - (3) When such comment would assist the Board in understanding the recommendation of the Examiner, the recommendation is against the manifest weight of the evidence or otherwise subject to dispute, comment upon matters of evidence; and
 - (4) Transmit his remarks and recommendations to the Board in accordance with the time constraints stated in Section 9-21 of the Election Code.
- (b) If no question of law or fact requires the General Counsel's comment or recommendation, he shall so note without further remark.

(Source: Amended at 14 Ill. Reg. 10832, effective June 22, 1990.)

Section 125.254 STIPULATED SETTLEMENT

- (a) Whenever a closed preliminary hearing is conducted, the parties shall be afforded an opportunity to come into compliance with any applicable requirement of the Act, the Election Code, or any rule of the Board and to dispose of all matters in dispute by written stipulation or agreed order approved by the Board. Provided however, if the committee has previously failed to comply with the requirements of the Act, the Election Code or any rule of the Board, then any stipulation or agreed order must be submitted to the Board and shall not be effective unless approved by the Board. Repeated failures to comply with the Act, the Election Code, or rules of the Board shall entitle the Board to reject any proposed stipulation or agreed order and to direct that a complaint be filed. "Repeated failures" means more than once.
- (b) Any written stipulation or agreed order issued pursuant to this Section shall include a provision known as the "Standing Order" provision as referred to in Section 125.420, requiring that all subsequent reports, statements or filings required by the Act must be made within the time limits set forth in the Act, and that any failure or refusal to comply with filing deadlines shall result in the imposition of the following civil penalties in accordance with Section 125.425. Any such standing order provision shall remain in effect for a period of 12 months from the date of the final order, stipulation or agreed order.
- (c) Any person who fails or refuses to comply with the terms of a standing order provision shall be notified by the Board by service as set forth in Section 125.425, that the Board shall issue an order imposing a civil penalty in accordance with the schedule set forth in this Rule. Such person shall be afforded an opportunity to appear at the next regularly scheduled or special Board meeting and to show cause why such a civil penalty shall not be imposed. For purposes of this subsection, cause shall consist of proof that the report was submitted on time, as evidenced by a date stamp on the received document or other evidence submitted to the Board.
- (d) Any civil penalties imposed pursuant to this Section may be enforced and collected in accordance with Section 125.430.
- (e) In approving any stipulation or agreed order under this Part the Board shall consider, but not be limited to, any evidence offered and noted by the Examiner or Hearing Examiner of the following factors:
 - (1) A party's history of compliance with the Act, the Election Code, or rules of the Board;
 - (2) Any evidence of respondent's ignorance of a material fact which led to the conduct which was the source of the complaint;
 - (3) The degree of cooperation exhibited by the respondent with Board staff, the Hearing Examiner or Examiner and,
 - (4) Factors in mitigation or factors in aggravation of the circumstances complained of in the complaint.

(Source: Added at 14 Ill. Reg. 10832, effective June 22, 1990.)

Section 125.255 TRANSCRIPT OF PRELIMINARY HEARING (Repealed)

(Source: Repealed at 14 Ill. Reg. 10832, effective June 22, 1990.)

Section 125.260 REPORT OF HEARING EXAMINER (Repealed)

(Source: Repealed at 14 Ill. Reg. 10832, effective June 22, 1990.)

Section 125.262 BOARD DETERMINATION

- (a) After the submission of the recommendations of the Examiner, the minutes, and the recommendations of the General Counsel, if any, the Board shall determine whether the complaint was filed on justifiable grounds. If the Board determines that the complaint was filed on justifiable grounds, and if the respondent is unwilling to take such action as necessary to correct the violation, or refrain from the conduct giving rise to the violation, it shall order a public hearing to be conducted in accordance with the provisions of Subpart C of this Part.
- (b) The Board may consider and discuss the Examiner's recommendation through a conference telephone call begun in open session and continued in executive session in lieu of an in-person meeting, and such consideration and discussion shall be deemed part of the closed preliminary hearing process. Any action on the Examiner's report recommendations must be taken in open session, or if taken as part of the telephonic conference call, that portion of the conference call shall be broadcast over a speaker phone or other similar device at both the permanent and branch offices of the Board and that portion of the broadcast call be open to the media and public.

(Source: Amended at 24 Ill. Reg. 14203, effective September 11, 2000.)

Section 125.265 JUDICIAL REVIEW

Judicial review of a final order of the Board entered or effected pursuant to Section 125.262 shall be in accordance with Section 9-22 of the Act.

Section 125.270 RECORD OF PRELIMINARY HEARING ON APPEAL ADMINISTRATIVE REVIEW

Upon appeal from a final order of the Board dismissing a complaint following a closed preliminary hearing, minutes and documentary evidence received during the preliminary hearing, together with the recommendation of the Examiner, the recommendation of the General Counsel, if any, and the final order of the Board, shall constitute the record on administrative review pursuant to Ill. Rev. Stat. 1987, ch. 110, pars. 3-101 et seq. If a party has caused a verbatim transcript of the closed preliminary hearing to be made, he, at his election, may submit that transcript for inclusion in the record on administrative review. Legal counsel for the Board shall be instructed to seek leave of Court to file the record on administrative review "in camera" with the Court having jurisdiction over the review. Any public inspection or release thereof may be subject to order of that Court. Before the record is filed, the Examiner shall notify the parties that the record has been prepared, shall receive corrections from any parties, shall examine the record for accuracy, and then shall certify that it is a true and accurate record of the hearing.

(Source: Amended at 14 Ill. Reg. 10832, effective June 22, 1990.)

Section 125.272 ORDER OF PUBLIC HEARING

- (a) In the event that the Board orders a public hearing, the Board shall as Section 9-21 of the Election Code requires appoint a Hearing Examiner to conduct a public hearing on the complaint and shall immediately serve upon all parties a written Notice of Appointment of the Hearing Examiner, stating the name, business address and telephone number of the Hearing Examiner, together with a copy of the Board's order after the closed preliminary hearing. If the complaint is filed within sixty (60) days preceding the date of an election in reference to which the complaint is filed, the General Counsel also shall promptly give telephonic or

telegraphic notice of the appointment to all parties, which notice shall be deemed supplementary to the written Notice of Appointment.

- (b) The Hearing Examiner shall, in accordance with the time constraints stated in Section 9-21 of the Election Code, designate a time and place for the public hearing and shall serve a written Notice of Hearing upon all parties, stating the time and place of such hearing. If the complaint is filed within sixty (60) days preceding the date of an election in reference to which the complaint is filed, the Hearing Examiner also shall promptly give telephonic notice of the hearing to all parties, which notice shall be deemed supplementary to the written Notice of Hearings.
- (c) The Notice of Hearing shall contain a statement that the respondent(s) has the right to be represented by legal counsel in any proceeding conducted by the State Board of Elections, including public hearing proceedings.

(Source: Amended at 14 Ill. Reg. 10832, effective June 22, 1990.)

Section 125.275 TIME AND CONDUCT OF PUBLIC HEARING (Repealed)

(Source: Repealed at 14 Ill. Reg. 10832, effective June 22, 1990.)

SUBPART C: PUBLIC ADJUDICATIVE HEARINGS

Section 125.310 APPLICABILITY

The rules in the Subpart apply to all public adjudicative hearings ordered by the Board.

Section 125.320 INITIATION OF HEARING

- (a) Hearings conducted pursuant to Subpart C shall be initiated once the Board has determined that a complaint alleging a violation of the Act has been filed upon justifiable grounds and further determines that such a hearing is necessary under the provision of Section 125.262 (a) of this Part.
- (b) Hearings may also be initiated by the Board when, in the exercise of its discretion, it determines there are reasonable grounds to believe that a violation of any other election law may have occurred.
- (c) The Board may determine that any adjudicative hearing shall be held before the Board. In the absence of such determination an adjudicative hearing shall be conducted by a Hearing Examiner.
- (d) Any hearing before the Board shall be conducted in the same manner as provided for the calling and conduct of hearings by a Hearing Examiner, except that after the conclusion of such hearing the Board shall issue its final order without the necessity of written comment by the General Counsel.

(Source: Amended at 24 Ill. Reg. 14203, effective September 11, 2000.)

Section 125.330 APPOINTMENT OF HEARING EXAMINER

In all public adjudicative hearings to be conducted by a Hearing Examiner, the General Counsel shall appoint the Hearing Examiner and shall serve notice of the appointment upon all parties in accordance with Section 125.40. The notice shall state the name, office address, and telephone number of the person appointed as Hearing Examiner. The General Counsel shall also provide to the parties such telephonic or telegraphic notice of the appointment of a Hearing Examiner as the circumstances of the proceeding may warrant.

Section 125.340 NOTICE OF HEARING

In adjudicative hearings the Hearing Examiner shall, after receipt of notification of his appointment, designate a time and place for the public hearing, within any time limits as may be prescribed by law. The Hearing Examiner shall serve notice of the time and place of hearing upon all parties in accordance with Section 125.40.

(Source: Amended at 14 Ill. Reg. 10832, effective June 22, 1990.)

Section 125.350 DISCOVERY PROCEDURES

(a) Discovery procedures may be ordered by the Hearing Examiner upon the written request of any party, or upon his own motion, where necessary to expedite the proceedings, to insure a clear and concise record, to insure a fair opportunity to prepare for the hearing, or to avoid surprise at the hearing, and where the allowance of such discovery procedures will not interfere with or impair the time requirements applicable to the proceeding. Discovery may consist of the following:

- (1) production of documents or things;
- (2) depositions;
- (3) written interrogatories; and
- (4) requests for admissions of fact.

The Hearing Examiner may restrict or deny such discovery where necessary to prevent undue delay or harassment.

(b) The Hearing Examiner shall order the following discovery upon written request of any party:

- (1) list of witnesses who are known to the party, and who have knowledge of relevant facts;
- (2) a list of any expert witnesses who may be called at the hearing, which shall be submitted to all parties prior to the hearing.

(c) Any person, including a party, who is deposed, interrogated or required to submit documents or things under this Part may be examined regarding any matter, not privileged, which is relevant to the subject matter of the pending case, or which may lead to the discovery of such relevant information.

(d) Except as otherwise provided, all depositions and written interrogatories taken pursuant to this Section shall be for purposes of discovery only. Such depositions and interrogatories may be used for purposes of impeachment, as admissions, or as any affidavit could be used. Upon application to the Hearing Examiner either before or after the taking of such deposition or the filing of written interrogatories and upon a showing that at the time of the hearing the party deposed or interrogated will not be available due to death, age, sickness, infirmity, absence from the country or other exceptional circumstances, the Hearing Examiner may order that the deposition or interrogatories be used as evidence in the hearing.

(e) Upon transcription of a deposition, it shall be made available to the deponent for examination, unless his signature is waived at the deposition. Any changes in form or substance which the deponent desires to make shall be entered upon the deposition by the officer taking the same with a statement of the reasons given by the deponent making them. The deposition shall then be signed by the deponent unless he is ill or cannot be found or refuses to sign, in which event the officer's certificate shall state the reason for the omission of the signature.

(Source: Amended at 24 Ill. Reg. 14203, Effective September 11, 2000.)

Section 125.360 SUBPOENAS

- (a) Upon application to the Hearing Examiner by any party, or upon the request of the Hearing Examiner, the General Counsel may issue a subpoena in the name of the Board for attendance at a deposition or hearing, which may include a command to produce books, papers, documents or tangible things designated therein and reasonably necessary to resolution of the matter under consideration, subject to the limitations on discovery prescribed by Section 125.350. The Hearing Examiner, upon motion, and in any event at or before the time specified in the subpoena for compliance therewith, may quash or modify the subpoena if it is unreasonable or oppressive.
- (b) Every subpoena shall state the title of the action and shall command each person to whom it is directed
 - (1) to attend and give testimony at the time and place therein specified, and/or
 - (2) to produce books, papers, documents or tangible things designated therein at the time and place therein specified.
- (c) A subpoena duces tecum may be limited to the production of documents and not require personal attendance of the person to whom it is directed.
- (d) The party requesting the issuance of a subpoena shall tender therewith a check reimbursing the witness for the round trip cost of travel between the witness' place of residence and the place where his presence is requested. Reimbursement shall be equal to that provided by statute for civil costs in the Circuit Court of Illinois.

(Source: amended at 24 Ill, Reg. 14203, effective September 11, 2000.)

Section 125.370 TRANSCRIPT OF PROCEEDINGS

All proceedings at public hearings shall be recorded by a certified court reporter but need not be transcribed unless requested by a party who shall pay for the transcription of the portion requested, except as otherwise provided by the Board or by law. Any transcript will be retained through and including the time allotted for appeal, rehearing, or other manner of review prior to final deposition as provided by the Board or by law. Before the transcript is filed the Hearing Examiner shall notify the parties that the transcript has been produced, shall receive corrections from any person, shall examine the transcript for accuracy, and then within a reasonable time shall certify that it is a true and correct transcript of the hearing. Only after such certification may the transcript be made available for public inspection.

Section 125.380 OFFICIAL RECORD

The transcript and the record offered in connection with the hearing shall constitute the official record. The record in a public hearing shall include:

- (a) pre-hearing records, if any;
- (b) all pleadings (including all complaints, answers, notices, motions, briefs and rulings);
- (c) evidence received;
- (d) a statement of matters officially noticed;
- (e) offers of proof, objections and rulings;
- (f) Findings of Fact, Conclusions of Law and Recommendations of the Hearing Examiner.

Section 125.390 BRIEFS AND ORAL ARGUMENT

The parties may submit written briefs to the Hearing Examiner or Board, as the case may be, within five (5) days after the close of the hearing, or within such other time as is consistent with the responsibility for decision as required by law. Upon request at the time of submission of briefs or on its own motion, the Board or the Hearing Examiner may permit oral argument by the parties.

SUBPART D: FINAL ORDERS

Section 125.410 HEARING EXAMINERS REPORT

Upon the conclusion of the hearing held pursuant to Section 125.310 et seq., the Hearing Examiner shall issue his written report which shall include Findings of Fact, Conclusions of Law, and Recommendations. This report shall be prepared as soon as possible after the conclusion of the public hearing and shall be transmitted to the Board with a copy to the General Counsel.

- (a) Findings of Fact shall be based exclusively on the evidence presented at the hearing, including any matters officially noticed. Conclusions of Law and Recommendations shall be based upon a consideration of the record as a whole.
- (b) The General Counsel, after receipt of the Hearing Examiner's report, shall promptly submit his comments or opinion on the Hearing Examiner's report to the Board.

Section 125.420 ORDER OF THE BOARD: CIVIL PENALTIES

- (a) In addition to any complaint disposed of by written stipulation, agreed settlement or consent order pursuant to Section 9-21 of the Election Code (10 ILCS 5/9-21) the Board shall review the reports submitted by the Hearing Examiner and the General Counsel, and any objections, briefs or memoranda filed by any party to the hearing, and shall issue its final order within the time specified in Section 9-21 of the of the Election Code (10 ILCS 5/9-21). If the hearing was extended by stipulation or order of the Hearing Examiner pursuant to Section 125.160, then the Board decision shall be issued:
 - (1) within 36 hours of the Hearing Examiner's Report if the complaint was filed within 60 days prior to an election and related to such election, or
 - (2) within 60 days in all other instances.
 - (A) Oral argument before the Board prior to issuance of a final order or approval of a written stipulation, agreed settlement or consent order shall be permitted at the Board's discretion, if the Board determines supplemental testimony will provide heretofore undiscovered relevant testimony.
 - (B) The Board may consider, discuss and take final action on any final order, written stipulation, agreed settlement or consent order through a conference telephone call in lieu of an in-person meeting. Notice shall be given to the media in advance of such conference call. The call shall be broadcast over speakerphone or other similar device at both the permanent and branch offices of the Board and such broadcast shall be open to the media and public. The entire conference shall also be recorded by a certified court reporter.
- (b) Whenever the Board determines a person to be in violation of any provision of the Act or any regulation

adopted thereunder, the final order, written stipulation, agreed settlement or consent order shall direct that person to cease or correct such violation or otherwise comply with the Act or regulation within such time as the Board may specify, but not within less than fifteen (15) business days.

- (c) The Board shall also notify the person, as part of its final order, written stipulation, agreed settlement, or consent order that it shall impose a civil penalty, not to exceed \$5,000, on any person who fails or refuses to comply with such final order, written stipulation, agreed settlement or consent order within the time specified by the Board. The procedure for assessment and the amount of civil penalties shall be as set out in Section 125.425 of this Part.
- (d) Standing Orders
 - (1) Any final order, written stipulation, agreed settlement or consent order issued shall include a provision, referred to as a "Standing Order" provision, requiring that all subsequent reports, statements or filings required by the Act, during the period the standing order provision is in effect, must be made within the time limits set forth in the Act, and that any failure or refusal to comply with such filing deadlines shall result in the imposition of civil penalties by the Board in an amount not to exceed \$5,000
 - (2) Any such "Standing Order" shall remain in effect for a period of 12 months from the date of the final order, stipulation or agreed order. This "Standing Order" provision shall not apply to final orders rendered for delinquent filings under Section 9-10 of the Election Code [10 ILCS 5/9-10].
- (e) In addition to , or in lieu of, the imposition of a civil penalty, the Board's order may also direct that violations of the Election Code, any rule adopted thereunder, or any order issued by the Board, be reported to the Attorney General and the appropriate State's Attorney whenever there appears to be any evidence to suggest that there has been a willful failure to file or willful filing of false or incomplete information required by the Election Code and such willful failure to file or willful filing of false and incomplete information may possibly constitute a criminal violation of the Election Code pursuant to Section 9-26 of the Election Code [10 ILCS 5/9-26].
- (f) The Board's order imposing a civil penalty shall become effective immediately upon execution of the final order or as otherwise specified in the order, the Election Code, or other rule of the Board.
- (g) All parties to the proceeding shall be notified promptly of any and all orders and exact copies of such order shall be personally delivered or mailed by certified or registered mail to each attorney of record.

(Source: Amended at 24 Ill. Reg. 14203, effective September 11, 2000.)

Section 125.425 CIVIL PENALTY ASSESSMENTS

- (a) As used in this Section, "authorizing candidate" means any candidate who has at any time during the reporting period for the report in question or prior to that reporting period filed with the committee an authorization in accordance with Section 9-8 of the Election Code [10 ILCS 5/9-8].
- (b) A report required to be filed within a specified time pursuant to Section 9-10 of the Election Code is delinquent if not received by the Board on or before the due date. Document(s) are deemed received by the Board as of the date date-stamped by Board staff on the documents submitted.
- (c) If a report is or continues to be delinquent, it is subject to a civil penalty as set out in subsection (e) of this Section.

- (d) When a report required by Section 9-10 of the Election Code is delinquent, the Board will send notice of delinquency to the chairman and the treasurer of each delinquent State, State, and local, and local political committee, together with an Order assessing a civil penalty calculated in accord with subsection (e). The notice of delinquency and Order shall also be sent to any candidate listed by name on that committee's Statement of Organization. The notice of delinquency shall state that the Board has issued a civil penalty that will be final unless the committee shows cause in accord with subsection (f) why the penalty should not be assessed.
- (e) The Board will calculate the civil penalty as follows:
- (1) If the committee's total receipts, total expenditures, and the balance remaining at the end of the reporting period for which the delinquent report was due are each \$5000 or less, and if the delinquent report is a semi-annual report, the political committee shall be assessed a fine of \$25 per business day for the first violation, \$50 per business day for the second violation, and \$75 per business day for the third and each subsequent violation to a maximum of \$5000, except that, if the committee is formed for statewide office as that term is defined in Section 9-10(b) of the Election Code, the maximum shall be \$10,000, provided that the civil penalty for any committee shall not exceed \$500 for a first time offense involving a filing that is less than 10 days late.
 - (2) If the committee's total receipts, total expenditures, or balance remaining at the end of the reporting period for which the delinquent report was due exceeds \$5000, and if the delinquent report is a semi-annual report, the political committee shall be assessed a fine of \$50 per business day for the first violation, \$100 per business day for the second violation, and \$200 per business day for the third and each subsequent violation to a maximum of \$5000, except that, if the committee is one formed for statewide office as that term is defined in Section 9-10(b) of the Election Code, the maximum shall be \$10,000, provided that the civil penalty for any committee shall not exceed \$500 for a first time offense involving a filing that is less than 10 days late.
 - (3) If the committee's total receipts, total expenditures, and balance remaining at the end of the reporting period for which the delinquent report was due are each \$5000 or less and if the delinquent report is a pre-election report, the political committee shall be assessed a fine of \$100 per business day for the first violation, \$200 per business day for the second violation, and \$300 per business day for the third and each subsequent violation to a maximum of \$5000, except that, if the committee is one formed for statewide office as that term is defined in Section 9-10(b) of the Election Code, the maximum shall be \$10,000, provided that the civil penalty for any committee shall not exceed \$500 for a first time offense involving a filing that is less than 10 days late. The per business day penalty calculation will no longer accrue after the date of the election for which the report has been filed.
 - (4) If the committee's total receipts, total expenditures, or balance remaining at the end of the reporting period for which the delinquent report was due exceeds \$5000, and if the delinquent report is a pre-election report, the political committee shall be assessed a fine of \$200 per business day for the first violation, \$400 per business day for the second violation, and \$600 per business day for the third and each subsequent violation to a maximum of \$5000, except that, if the committee is one formed for statewide office as that term is defined in Section 9-10(b) of the Election Code, the maximum shall be \$10,000, provided that the civil penalty shall not exceed \$500 for a first time offense involving a filing

that is less than 10 days late. The per business day penalty calculation will no longer accrue after the date of the election for which the report has been filed

- (5) If the delinquently filed report is a Schedule A-1 (report of contributions exceeding \$500 received during the 30-day period prior to an election), in the final disposition of any appeal of a penalty assessed by the Board for such delinquency on or after November 19, 2003 (the effective date of Public Act 93-0615), the Board will consider assessing a civil penalty as follows:

A) The Board may:

- i) grant the appeal (no civil penalty assessment);
- ii) determine that a violation occurred and impose a penalty of no less than 10% nor more than 100% of the total amount of the contributions that were delinquently reported; or
- iii) determine that a violation occurred, but decline to assess a penalty.

B) When considering the amount of the civil penalty to be imposed, the Board shall consider all relevant factors, including, but not limited to, the following factors:

- i) whether in the Board's opinion the violation was committed inadvertently, negligently, knowingly, or intentionally;
- ii) the number of days the contribution was reported late; and
- iii) past violations of Sections 9-3 and 9-10 of the Election Code by the committee (filing requirement for the Statement of Organization, Pre-Election Reports, Schedule A-1s, and Semi-Annual Reports).

- (6) If the delinquently filed report is a Statement of Organization (form D-1), the Board shall assess a civil penalty of \$25 for each business day that the report remains unfiled after its due date, except that, if the committee is supporting a candidate running for statewide office or supporting a statewide referendum or a State Constitutional Amendment, the civil penalty will be \$50 per business day. Such penalties shall not exceed \$5,000 (\$10,000 for statewide candidates, referenda, or State Constitutional Amendment).

- (f) In addition to the civil penalties provided for in Section 9-10(b) and (b-5) of the Election Code, a committee or organization required to report under the Election Code may, for violations of provisions of Article 9 of the Election Code other than delinquent filing, be assessed a civil penalty under the provisions of Section 9-23 of the Election Code and this subsection. The Board will calculate civil penalties in accord with subsection (e). A committee that violates both Section 9-10 of the Election Code and an Order of the Board may be liable for separate penalties for each violation. In cases of alleged violation of an Order of the Board brought under the provisions of Section 9-23 of the Election Code, the Board will mail to each committee or organization alleged to be in violation of a Board order notice of a proposed civil penalty calculated in accord with the terms of this Part, which proposed penalty shall become effective without further proceedings unless the committee or organization receiving the notice contests the proposed civil penalty. A political committee assessed a civil penalty under Section 9-10(b) or (b-5) for being delinquent in filing a required report or that has received notice of a proposed civil penalty for violation of a Board order under Section 9-23 may:

- 1) submit, within 30 calendar days after the mailing of the assessment notice, a request for waiver of appearance and appeal affidavit in the form provided by the Board stating the reasons for requested waiver of appearance and the reasons for the late filing or violation of the Board order, as the case may be, to show why a civil penalty should not be assessed. This appeal affidavit shall either be in writing made under oath and upon penalty of perjury sworn to before a notary public or any person authorized to administer oaths or be made pursuant to Section 1-109 of the Code of Civil Procedure [735 ILCS 5/1-109]; or
 - 2) submit, within 30 calendar days after the mailing of the assessment notice, a request for hearing and appeal affidavit in the form provided by the Board stating the reasons for the late filing or violation of the Board Order, as the case may be, to show why a civil penalty should not be assessed. This appeal affidavit shall either be in writing made under oath and upon penalty of perjury sworn to before a notary public or any person authorized to administer oaths or be made pursuant to Section 1-109 of the Illinois Code of Civil Procedure [735 ILCS 5/1-109]; or
 - 3) pay, within 30 days after the mailing of the assessment notice, the civil penalty assessed. If an appeal affidavit is filed, with or without waiver of appearance, the civil penalty shall not be due until the appeal is determined by the Board.
- (g) If a political committee or organization required to report under the provisions of Article 9 of the Election Code subject to a civil penalty fails, within the time required, to make payment in full of the assessed civil penalty, then the Board shall proceed with efforts at collection pursuant to the Illinois State Collection Act of 1986 [30 ILCS 210]. The Board shall not hear an appeal of a civil penalty imposed for delinquent filing or the violation of a Board Order if neither a request for waiver of appearance and appeal affidavit nor a request for hearing and appeal affidavit is filed within the time required.
- (h) Notwithstanding any provision of this Section to the contrary, the Board shall stay the enforcement of any civil penalty in cases of first time violation of a filing deadline and shall stay the enforcement of a civil penalty for the violation of a Board Order where the committee organization has voluntarily entered into a stipulation admitting the violation and agreeing to the civil penalty. The stay shall continue only so long as no subsequent violations of Article 9 of the Election Code or of Board Orders occur. Violation of Article 9 of the Election Code or a Board Order will cause the civil penalty otherwise stayed to become immediately due and may expose the committee or organization to further liability in accord with this Section.
- (i) For the purpose of this Section, second and subsequent violations are deemed to occur with reference to the time the first offense event occurs, not when a hearing, if any is required, concerning such first offense event is held. The Board may consider two or more allegations of violations at the same hearing, treating the first as an initial violation and the remaining as subsequent violations, imposing appropriate civil penalties for each.
- (j) Notwithstanding any other provision of this Section:
- 1) if an active political committee is assessed no more than one civil penalty under Section 9-10 during a two year period, it shall, after two years have lapsed following the assessment, be considered as never having violated Section 9-10. For a single violation, the two year period begins to run with the mailing of the assessment letter. If an active political committee is assessed more than one civil penalty and has

paid all assessed civil penalties, it shall be considered for assessment purposes as not having violated that Section if it is assessed no other civil penalty during a two year period following receipt of payment by the Board;

- 2) if a committee is assessed a single penalty under Section 9-10 and subsequently files a final report or has filed a final report prior to the assessment, during the two year period beginning with the date of the assessment letter, or the final Board Order if the assessment is appealed and the appeal is denied, any successor committee shall be considered, for assessment purposes, as not having violated Section 9-10 if it is assessed no other penalty;
 - 3) if a committee is assessed more than one penalty under Section 9-10 and subsequently files a final report or has filed a final report prior to the assessment, and the political committee has not paid the civil penalties, any successor committee that subsequently pays all civil penalties due shall be considered as never having violated Section 9-10 if, for two years from the date of receipt of payment by the Board, the successor committee is assessed no other civil penalty.
- (k) Upon notice by the Hearing Examiner or upon request by any party, the Hearing Examiner may direct parties or their attorneys to appear at a specified time and place for a conference, either during or prior to any hearing, for purposes including, but not limited to:
- 1) the formulation and simplification of issues;
 - 2) the necessity or desirability of amending the assessment notice for the purpose of clarification or correction;
 - 3) the possibility of stipulations concerning material facts;
 - 4) the limitations of the number of witnesses;
 - 5) such other matters as may aid in the simplification of evidence and the disposition of the proceeding.

(Source: Amended at 29 Ill. Reg. 18796, effective November 7, 2005)

Section 125.430 ENFORCEMENT ACTIONS IN THE CIRCUIT COURT

- (a) Whenever the Board, pursuant to Sections 9-21 and 9-23 of the Act, has issued an order directing a person determined by the Board to be in violation of the Act or any rule or regulation adopted thereunder to cease or correct such violation or otherwise comply with the Act and the Board imposes a civil penalty for failure or refusal to comply with such order within the specified time, the Board shall enforce such civil penalty by filing with the Circuit Court a petition for an order to enforce collection of the penalty.
- (b) The Board may also petition the Circuit Court to issue an order of the Court compelling compliance with an order issued by the Board, or to restrain or prohibit a person who is engaging or has engaged in acts or practices which constitute a violation of any provisions of the Act from engaging in such acts or practices.

Section 125.440 RECONSIDERATION

Any member of the Board, or any party affected by a final order of the Board may file a written motion to reconsider. Such motion shall set forth in specific detail the grounds alleged for reconsideration and must be filed with the Board not later than 7 days after the effective date of the Board's order.

- (a) Oral argument shall be permitted on such motion only at the Board's discretion.
- (b) The Board may consider, discuss, and take action upon such motion thru a conference telephone call in lieu of an in-person meeting. Notice shall be given to the media in advance of such conference call, the call shall be broadcast over a speakerphone or other similar device at both the permanent and branch offices of the Board and such broadcast shall be open to the media and public. The entire conference call shall also be recorded by a certified court reporter.

SUBPART E: INVESTIGATIONS, INQUIRIES AND HEARINGS PURSUANT TO SEC. 5/9-18

Section 125.510 APPLICABILITY (Repealed)

(Source: Repealed at 14 Ill. Reg. 10832, effective June 22, 1990.)

Section 125.520 STAFF REVIEW AND ENFORCEMENT OF REPORTING REQUIREMENTS

Prior to filing a written complaint pursuant to Sec. 9-20 of the Act, the State Board of Elections, through its staff, shall:

- (a) Notify in writing each political committee that has failed to file a required report, or whose report is incorrect, incomplete, inaccurate, or otherwise not in compliance with the law. Notification for failure to file a Pre-election Report shall be sent to all candidates on the ballot as well as all participating political committees required to file same report; for a Semiannual Report, notice shall be sent to all established political committees required to file such report. Telephonic notice shall also be given whenever possible to an officer of the political committee.
- (b) The written notice required by subsection (a) above shall be given by:
 - (1) Personal service, or
 - (2) By first-class mail. With respect to documents required that have been filed, the notice shall specify to the extent possible the deficiencies claimed in such reports.
- (c) The notice shall also set a time, place and date for a pre-complaint conference to be held in accordance with Section 125.530 below. Such conference must be afforded to any political committee or its chairman or treasurer, or to any other person affected prior to a complaint being filed by or on behalf of the Board.
- (d) For good cause shown, the division head of the Campaign Disclosure Section of the Board may extend the time for compliance for an additional thirty (30) days after the date of the pre-complaint conference. No further extensions of time shall be given without express Board approval, and in those cases where the reporting committee is subject to a "Standing Order" provision as provided in Section 125.420, no extensions of time shall be given.

(Source: Amended at 14 Ill. Reg. 10832, effective June 22, 1990.)

Section 125.530 COMPLIANCE CONFERENCE

Whenever a compliance conference is conducted, the parties shall be afforded an opportunity to come into compliance with any applicable requirement of the Act, the Election Code, or any rule of the Board and to dispose of all matters in dispute by written stipulation or agreed order. Provided however, if the committee has previously failed to comply with the requirements of the Act, the Election Code or any rule of the Board, then any stipulation or agreed order must be submitted to the Board and shall not be effective unless approved by the Board. Repeated failures to comply with the Act, the Election Code, or rules of the Board shall entitle the Board to reject any proposed stipulation or agreed order and to direct that a complaint be filed.

(Source: Amended at 14 Ill. Reg. 10832, effective June 22, 1990.)

Section 125.540 STAFF INITIATED COMPLAINT (Repealed)

(Source: Repealed at 14 Ill. Reg. 10832, effective June 22, 1990.)

Section 125.550 INVESTIGATIONS, INQUIRIES OR HEARINGS

The Board, or General Counsel with prior consent of the Chairman and Vice Chairman, may undertake such other investigations or inquiries as may be reasonable or necessary concerning any matter covered by the Act. Once an investigation or inquiry has been so undertaken, the General Counsel shall have the authority to hire fact-finders or investigators or to carry out such other directions as the Board may give. Subpoenas may be issued upon vote by the Board in order to carry out such investigation, inquiry, or hearing.

SUBPART F: RULE-MAKING AND NON-ADJUDICATIVE HEARINGS

Section 125.610 APPLICABILITY

The Sections in this Subpart shall apply to all rule-making and other non-adjudicative hearings and procedures except for closed preliminary hearings under Subpart B of this Part. Hearings conducted pursuant to this Subpart shall be deemed in the nature of legislative hearings.

(Source: Amended at 14 Ill. Reg. 10832, effective June 22, 1990.)

Section 125.620 ADOPTION OF RULES

Except in cases of emergency no substantive rule shall be adopted, amended or repealed by the Board until after public hearings held in at least two areas of the State. If the Board finds that an emergency requires adoption of a rule, it may proceed without prior notice or hearing, or upon any abbreviated notice and hearing that it finds practicable, to adopt an emergency rule which shall be effective for a period of up to 150 days.

- (a) Revision of Proposed Rules. After rule making hearing, the Board may revise the proposed rules before adoption in response to suggestions made at the hearing and written submissions received subsequent thereto, without conducting a further hearing on the revisions.
- (b) Notice of Final Rule. Any person heard on the original proposal, who has given his name and address to the Board, or is on the Board's mailing list, shall be given notice of the Board's final action.

Section 125.630 NON-ADJUDICATIVE HEARINGS

The Board may either

- (a) hold such hearings as are required hereunder, or
- (b) designate a subcommittee of the Board, a member of the Board's staff, or a Hearing Examiner to hold such a hearing. Whenever possible any person designated as a Hearing Examiner shall be a licensed attorney.

Section 125.640 NOTICE OF HEARING

Notice of hearing shall be given at least ten (10) days prior to the date of the hearing:

- (1) To all persons on the Board's mailing list, and
 - (2) By public advertisement in a newspaper of general circulation in Chicago and Springfield and in the area where the hearing is to be held if other than Chicago or Springfield.
- (a) The Board shall make available copies of any proposed rules and supporting statements at the time the hearing date on proposed rules is announced.

Section 125.650 CONDUCT OF THE HEARING

The hearing shall be conducted in such manner so as to insure a fair hearing, to avoid delay, to maintain order, and to ensure development of a clear and complete record. The hearing may provide for:

- (a) the prior submission of testimony and exhibits in writing;
- (b) the examination of witnesses under oath;
- (c) a limitation on the amount of time each witness may testify; and
- (d) restriction or elimination of merely cumulative testimony.

Section 125.660 EXAMINATION OF WITNESS

Examination of witnesses by any member of the Board, by counsel to the Board or by a Hearing Examiner shall be permitted. Examination by any other person shall be permitted in the discretion of the party conducting the hearing. Repetitious examination may be limited.

Section 125.670 RECORD

All testimony shall be recorded stenographically. The transcript, all written testimony, all exhibits offered in connection with the hearing, and all written submissions shall constitute the record.

Section 125.680 REPORT OF HEARING

If a hearing is conducted by a member of the Board's staff, or by a Hearing Examiner, then within twenty-one (21) days after the conclusion of the hearing(s), a written report shall be submitted to the Board. Such report shall summarize the record, and shall include such other comments, suggestions, conclusions, or recommendations as the party preparing such report deems necessary.

SUBPART G: ADVISORY OPINIONS

Section 125.710 ADVISORY OPINIONS

- (a) An advisory opinion may be requested from the State Board of Elections by any of the following:
 - (1) a member of the Board;
 - (2) any county clerk or chairman or presiding officer of an election authority or any legal representative acting on their behalf;
 - (3) any local election official or any legal representative acting on their behalf;
 - (4) With respect to any issues concerning "An Act to Regulate Campaign Financing" (Ill. Rev. Stat. 1981, ch. 46, pars. 9-1 et seq.). Any candidate for public office or the chairman or treasurer of any campaign committee which is, or may be required to file any Campaign Disclosure reports.
- (b) The request must be submitted in writing to the General Counsel and shall set forth (i) the specific facts, activity, or transaction that the requesting party is, or intends to undertake, and (ii) the specific issues (including any applicable statutes or rules) on which the requesting party seeks an advisory opinion.
 - (1) Requests presenting general questions of interpretations, hypothetical questions, or matter relating to activities of third parties shall not qualify as request for an advisory opinion.
 - (2) Advisory opinions shall be limited to those issues which are deemed to be of significant overall importance in the implementation and enforcement of the Election Laws. Issues of significant overall importance shall be determined on a case by case basis and shall include but not be limited to issues which raise questions concerning the interpretation and application of election related law that may have general application to elections throughout the State and the determinations of which may serve as future precedent for similar situations and circumstances. Issuance of any advisory opinion shall at all times be discretionary with the Board.
- (c) The General Counsel shall review all requests for advisory opinions and if the General Counsel determines that the request is incomplete or does not otherwise qualify under paragraph (b) above, he shall within 14 days of the receipt of such request, notify the requesting party, and specify any deficiencies in such request. The requesting party may appeal any such determination by the General Counsel directly to the Board.
- (d) If the General Counsel determines that the request may qualify for an advisory opinion, or if the Board overrules the determination by the General Counsel pursuant to paragraph (c) above, then the request shall be referred to any appropriate divisions within the State Board of Elections for review and written comment. Such written comment shall be directed to the General Counsel, and the General Counsel shall in turn review and provide written comment on the request to the Board. The General Counsel shall also advise the legal representative of the party making the request for opinion that such a request has been made to the Board.
- (e)
 - (1) Within sixty (60) days after a request is received which qualifies for an advisory opinion, the Board shall issue to the requesting party either:
 - (A) a written advisory opinion, or;
 - (B) a statement that the Board declines to issue an advisory opinion.
 - (2) An advisory opinion shall be issued only upon the affirmative vote of five (5) members of the Board.
- (f) An advisory opinion rendered by the Board may be relied upon by:
 - (1) the requesting party;
 - (2) any person involved in the specific transaction or activity with respect to which such advisory opinion

is rendered, and;

- (3) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which advisory opinion is rendered.
- (g) Nothing contained herein shall preclude the distribution by the Board or any of its staff of information consistent with the Elections Laws, any prior opinions of the Board, and any relevant federal or state case law.
- (h) A copy of each advisory opinion shall be sent to the requesting party and to all election authorities (Ill. Rev. Stat. 1981, ch. 46, par. 1-3(8)). In addition, a copy of the advisory opinion shall be sent to any legal representatives of the requesting party and the election authority or local election official which made the request for opinion.

(Source: Amended at 7 Ill. Reg. 15803, effective November 9, 1983)

Section 125.720 RECONSIDERATION OF ADVISORY OPINION

- (a) The Board may reconsider an advisory opinion previously issued if the circumstances under which the opinion was issued have changed and either:
 - (1) If the requesting party submits a written request for reconsideration within 30 calendar days after receipt of the opinion and if upon the motion of a member of the Board who voted with the majority that originally approved the opinion, the Board adopts the motion to reconsider by the affirmative vote of 5 members, or
 - (2) If upon motion of a member of the Board who voted with the majority originally adopted the advisory opinion, the Board adopts the motion to reconsider by an affirmative vote of 5 members.
- (b) Adoption of a motion to reconsider vacates the advisory opinion to which it relates. The advisory opinion shall cease to be effective:
 - (1) With respect to the party requesting such opinion when written notice of the adoption of the motion to reconsider is given to such party;
 - (2) With respect to all other persons who might claim that such opinion applies to them pursuant to Section 125.710(f) (2) above, upon adoption of the motion to reconsider by the Board.
- (c) In the event an advisory opinion is reconsidered, action taken in good faith, and in reliance upon such opinion prior to its reconsideration, shall stop the Board from claiming any violation of the Election Laws, or of any Rules or Regulations of this Board, to which the advisory opinion applied.

(Source: Amended at 7 Ill. Reg. 15803, effective November 9, 1983)

Section 125.730 PUBLIC AVAILABILITY OF ADVISORY OPINIONS

When issued, each advisory opinion shall be made public and shall be sent by mail, or personally delivered to the requesting party.

- (a) A copy of all advisory opinions shall be kept on file and shall be made available for public inspection or purchase through the Office of the General Counsel in both the Chicago and Springfield offices by the Board. Opinions will be available for inspection during normal working hours and statutory fees will be charged for photocopying.

(Source: Amended at 7 Ill. Reg. 15803, effective November 9, 1983)

Section 125.740 CONFLICT BETWEEN THIS PART AND THE IAPA

In the event of any conflict between this Part and the Illinois Administrative Procedure Act (IAPA) (Ill. Rev. Stat. 1981, ch. 127 pars. 1001 et seq.), the provisions of the Illinois Administrative Procedure Act shall control.

(Source: Amended at 7 Ill. Reg. 15803, effective November 9, 1983)

SUBPART H: MISCELLANEOUS PROVISIONS

Section 125.810 EX PARTE COMMUNICATIONS

Except in the disposition of matters which they are authorized by law to entertain or dispose of on an ex parte basis, neither members of the Board, employees of the Board nor Hearing Examiners shall, after the commencement of any proceeding pursuant to the Act or these Rules, communicate, directly or indirectly with any party in connection with any pending issue except upon notice and opportunity for all parties to participate.

- (a) With respect to any complaint filed pursuant to Subpart B of these Rules, the prohibition provided for in paragraph (a) of this Rule shall commence with the filing of the complaint.
- (b) Nothing in this Rule shall prohibit Board staff or Board members from communicating with each other, or a Hearing Examiner or Board member from communicating with employees of the Board to obtain their aid and advice on technical matters which fall within the area of expertise of the employee consulted.
- (c) The Board may institute such sanctions against any violator of these provisions as it may deem appropriate and authorized by law.

Section 125.820 EFFECTIVE DATE

This Part shall take effect upon their adoption and upon the filing thereof with the Secretary of State of Illinois.

Section 125.830 INTERPRETATION

The use of the masculine shall include the feminine or neuter where appropriate; the use of the singular shall include the plural where necessary. Whenever the word "shall" is used it shall be considered mandatory. The use of "may" is deemed permissive.

Section 125.840 SEVERABILITY

These Rules are severable and the invalidity or unenforceability of one or more shall not affect the validity of any other Rule which may be given independent effect or application.

**TITLE 26: ELECTIONS
CHAPTER 1: STATE BOARD OF ELECTIONS**

**PART 210
RAFFLES CONDUCTED BY POLITICAL COMMITTEES**

Section

210.10 Licensing of Raffles Conducted by Political Committees

210.APPENDIX A Application Form

AUTHORITY: Implementing and authorized by the Raffles Act [230 ILCS 15].

SOURCE: Emergency rules adopted at 14 Ill. Reg. 6907, effective May 1, 1990, for a maximum of 150 days; emergency expired September 28, 1990; adopted at 15 Ill. Reg. 4450, effective March 16, 1991; amended at 29 Ill. Reg. 18810, effective November 7, 2005.

26 ILLINOIS ADMINISTRATIVE CODE CH. 1, Sec. 210.10

Section 210.10 Licensing of Raffles Conducted by Political Committees

- a) No raffle or other game of chance defined in and authorized by Section 8.1 of the Raffles Act [230 ILCS 15/8.1] (the Act) shall be conducted unless a license has first been issued for such a purpose by the State Board of Elections (Board).
- b) "Political Committee" as used in this Part shall mean a political committee as defined by Section 9-1.9 of the Election Code [10 ILCS 5/9-1.9].-
- c) No political committee, group, association, or other entity shall receive a license to conduct a raffle unless it is a political committee as defined by this Part and Section 9-1.9 of the Election Code, and unless it meets all requirements of Section 8. of the Act.
- d) Application for a license to conduct a raffle shall be made on forms provided by the Board and shall supply, over the oath of the applicant, all information requested by the application form. The form of the application is set out in Appendix A.
- e) Only the chairman or treasurer of a political committee whose name is listed on the committee's D-1 statement at the time the application is filed shall sign the application for a license to conduct a raffle.
- f) An officer of a political committee or an employee or person not otherwise disqualified by the Act itself shall be deemed to be of good moral character if he or she has never been convicted of an offense identified in Article 29 of The Election Code; provided that if an officer, employee or person has been convicted of such an offense he or she may nonetheless be deemed of good moral character if at least one year has elapsed between the completion of any sentence, including a sentence of probation, imposed upon such conviction and the date the application is sent to the Board as noted upon the application itself.

- g) The information supplied by the applicant, over his or her oath, if it is complete as to each and every item of the application for which an answer is required, shall be deemed to be presumptively correct and sufficient for the Board to issue a license to the applicant to conduct a raffle.
- h) Any person who has grounds to believe a committee has violated the terms of the Act or of its license may file a complaint before the State Board of Elections to determine whether a license holder remains in compliance with the terms of its license. The Board shall hear such a complaint under the provisions of 26 Ill. Adm. Code 125. Subpart C. The complainant shall prove its case before the Board. Nothing in this Part prohibits the Board from filing a complaint, but unless it does so, the Board shall not act as an advocate for the Complainant. Failure of a committee to abide by the Act and its license voids the license whether or not a complaint is filed.
- i) All receipts and/or expenditures for raffles conducted under this Section and the Act shall be reported on the report next required to be submitted by the committee after each separate raffle under Article 9 of the Election Code and on such other reports as may be required by that Article.

(Source: Amended at 29 Ill. Reg. 18810, effective November 7, 2005.)